




3 1761 11701457 1



Digitized by the Internet Archive  
in 2023 with funding from  
University of Toronto

<https://archive.org/details/31761117014571>

GOVT PUBNS







Canada: Marine and Fisheries,  
Standing Committee on, 1952  
HOUSE OF COMMONS

Sixth Session—Twenty-first Parliament, 1952

443  
2  
STANDING COMMITTEE

ON

# MARINE AND FISHERIES

Chairman: T. G. W. ASHBOURNE, Esq.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

THURSDAY, APRIL 24, 1952

TUESDAY, MAY 6, 1952

THURSDAY, MAY 8, 1952

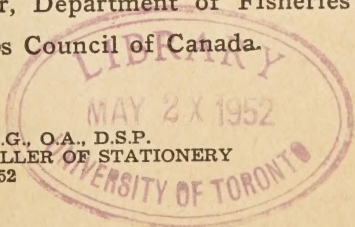
Draft International Convention for the High Seas Fisheries of the  
North Pacific Ocean.

## WITNESSES:

Mr. Stewart Bates, Deputy Minister, Department of Fisheries;

Mr. C. G. O'Brien, Manager, Fisheries Council of Canada.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1952





STANDING COMMITTEE

ON

MARINE AND FISHERIES

Chairman: T. G. W. Ashbourne, Esq.

Vice-Chairman: A. W. Stuart, Esq.

Messrs:

Applewhaite	Fulford	Macdonald ( <i>Edmonton</i>
Arsenault	Gibson	<i>East</i> )
Balcom	Gillis	MacInnis
Bennett	Harrison	MacLean ( <i>Queens</i> )
Black ( <i>Cumberland</i> )	Henderson	MacNaught
Blackmore	Higgins	Maltais
Blair	James	McLean ( <i>Huron-Perth</i> )
Breton	Kirk ( <i>Antigonish-</i>	McLure
Cannon	<i>Guysborough</i> )	Mott
Catherwood	Langlois ( <i>Gaspé</i> )	Pearkes
Cavers	Leger	Stick
Côté ( <i>Matapedia-Matane</i> )		Thomas

(Quorum—10)

A. SMALL,  
Clerk of the Committee.

## ORDERS OF REFERENCE

HOUSE OF COMMONS,  
TUESDAY, March 18, 1952.

*Resolved*,—That the following Members do compose the Standing Committee on Marine and Fisheries:—

Messrs:

Applewhaite	Fulford	MacInnis
Arsenault	Gibson	MacLean ( <i>Queens</i> )
Ashbourne	Gillis	MacNaught
Balcom	Harrison	Maltais
Bennett	Henderson	McLean ( <i>Huron-Perth</i> )
Black ( <i>Cumberland</i> )	Higgins	McLure
Blackmore	James	Mott
Blair	Kirk ( <i>Antigonish-</i>	Pearkes
Breton	<i>Guysborough</i> )	Stick
Cannon	Langlois ( <i>Gaspé</i> )	Stuart ( <i>Charlotte</i> )
Catherwood	Leger	Thomas—35.
Cavers	Macdonald ( <i>Edmonton</i>	
Côté ( <i>Matapedia-Matane</i> )	<i>East</i> )	

(Quorum 10)

*Ordered*,—That the Standing Committee on Marine and Fisheries be empowered to examine and inquire into all such matters and things as may be referred to them by the House, and to report from time to time their observations and opinions thereon; with power to send for persons, papers and records.

WEDNESDAY, April 9, 1952.

*Ordered*,—That the subject-matter of the Japanese Fishing Treaty negotiated in Tokyo last December, between United States, Japan and Canada, be referred to the said Committee.

WEDNESDAY, April 23, 1952.

*Ordered*,—That the name of Mr. Wood be substituted for that of Mr. Cavers on the said Committee.

THURSDAY, April 24, 1952.

*Ordered*,—That the said Committee be empowered to print, from day to day, 1,000 copies in English and 250 copies in French of the Minutes of Proceedings and Evidence and that Standing Order 64 be suspended in relation thereto.

*Ordered*,—That the said Committee be granted leave to sit while the House is sitting.

## STANDING COMMITTEE

WEDNESDAY, May 7, 1952.

*Ordered*,—That the name of Mr. Herridge be substituted for that of Mr. MacInnis on the said Committee.

THURSDAY, May 8, 1952.

*Ordered*,—That the number of copies to be printed of the Minutes of Proceedings and Evidence of the said Committee be increased from 1,000 copies in English to 2,000, and from 250 copies in French to 500 and that Standing Order 64 be suspended in relation thereto.

Attest.

LEON J. RAYMOND,  
*Clerk of the House.*

## REPORTS TO THE HOUSE

THURSDAY, April 24, 1952.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

### FIRST REPORT

Your Committee recommends:

1. That it be empowered to print, from day to day, 1,000 copies in English and 250 copies in French of the Minutes of Proceedings and Evidence and that Standing Order 64 be suspended in relation thereto.

2. That it be granted leave to sit while the House is sitting.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*

THURSDAY, May 8, 1952.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

### SECOND REPORT

Your Committee recommends that the number of copies of its Minutes of Proceedings and Evidence to be printed be increased from 1,000 copies in English to 2,000, and from 250 copies in French to 500 and that Standing Order 64 be suspended in relation thereto.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*



## MINUTES OF PROCEEDINGS

THURSDAY, April 24, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. this day. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Arsenault, Ashbourne, Balcom, Black (*Cumberland*), Blair, Breton, Catherwood, Harrison, Henderson, James, MacLean (*Queens*), MacNaught, McLean (*Huron-Perth*), McLure, Stuart (*Charlotte*), Wood.

The Chairman thanked the Committee for the honour again conferred on him and commented briefly on the business referred by the House to the Committee.

The Orders of Reference, dated March 18 and April 9, 1952, were read by the Clerk of the Committee.

On motion of Mr. Balcom,

*Resolved*,—That Mr. A. W. Stuart be Vice-Chairman of the Committee.

On motion of Mr. Applewhaite,

*Resolved*,—That permission be sought to print, from day to day, 1,000 copies in English and 250 copies in French of the Minutes of Proceedings and Evidence.

On motion of Mr. Harrison,

*Resolved*,—That a Sub-Committee on Agenda and Procedure comprised of the Chairman and 6 Members to be named by him, be appointed.

On motion of Mr. Stuart (*Charlotte*),

*Resolved*,—That permission be sought to sit while the House is sitting.

Copies of the North Pacific Fisheries Convention, referred to the Committee by the House on April 9, 1952, were distributed to the Members present. *See Appendix A to Evidence.*

Following a brief discussion on its Orders of Reference and future program on motion of Mr. MacNaught the Committee adjourned at 11.20 o'clock a.m. until 11.00 o'clock a.m., Tuesday, May 6, 1952.

A. SMALL,  
*Clerk of the Committee.*

TUESDAY, May 6, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Black (*Cumberland*), Catherwood, Gillis, Harrison, James, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacNaught, McLean (*Huron-Perth*), McLure, Mott, Pearkes, and Stuart (*Charlotte*).

*In attendance:* Mr. Stewart Bates, Deputy Minister, Mr. G. R. Clark, Assistant Deputy Minister, Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and Mr. C. G. O'Brien, Manager, Fisheries Council of Canada, Ottawa.

The Chairman announced the names of Members of the Sub-Committee on Agenda and Procedure in addition to the Chairman, namely: Messrs. Applewhaite, Gillis, MacNaught, Pearkes, Stuart (*Charlotte*), and Thomas.

The Chairman presented the First Report of the Sub-Committee on Agenda and Procedure which is as follows:—

May 5, 1952.

Your Sub-Committee on Agenda and Procedure met on May 5th and has agreed to recommend:

1. That the Draft International Convention for the High Seas Fisheries of the North Pacific Ocean be printed as an appendix to the Minutes of Proceedings and Evidence.
2. That the statement of Mr. Stewart Bates, Deputy Minister of the Department of Fisheries, on the said Convention be heard on Tuesday, May 6 and if possible, that the hearing of his statement be concluded by Saturday, May 10.
3. That, after Mr. Bates' statement has been heard, the Committee adjourn, for approximately 3 weeks, until Tuesday, May 27.
4. That the Clerk of the Committee be instructed to communicate during the adjournment with the interested organizations whose requests to submit representations or give evidence have been tabulated by the Department of Fisheries.

On motion of Mr. Pearkes,

*Resolved*,—That the First Report of the Sub-Committee on Agenda and Procedure be now concurred in.

On motion of Mr. Applewhaite,

*Resolved*,—That all organizations wishing to make representations to the Committee be asked to file, if possible, at least 50 copies of their briefs in advance of May 27 and that such organizations indicate in their replies to the Committee whether or not a representative will appear to give evidence and make representations.

Mr. Bates was called and made his statement, following which he, assisted by Mr. Clark and Mr. Ozere, answered questions asked by Committee Members.

The witness retired.

By leave of the Committee, Mr. O'Brien was called and allowed to read (1) Resolution adopted at the Seventh Annual Meeting of the Fisheries Council of Canada and (2) List of Member Organizations, both of which are incorporated in to-day's evidence.

The witness retired.

At 1.00 o'clock p.m., the Committee adjourned until Thursday, May 8, at 11.00 a.m.

THURSDAY, May 8, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present*: Messrs. Applewhaite, Ashbourne, Balcom, Black (*Cumberland*), Blackmore, Blair, Cannon, Catherwood, Gibson, Gillis, Harrison, Herridge, Macdonald (*Edmonton East*), MacLean (*Queens, P.E.I.*), MacNaught, McLean (*Huon-Perth*), Mott, Pearkes, and Stuart (*Charlotte*).

*In attendance:* Mr. Stewart Bates, Deputy Minister, Mr. G. R. Clark, Assistant Deputy Minister, and Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries.

The Chairman announced that the Clerk had written on May 7, 1952, to the interested organizations wishing to make representations to the Committee on the Convention, and that copies of the letter and list of organizations to whom the letter was sent would be placed in Members' mail boxes today.

On motion of Mr. Gibson,

*Ordered*,—That the letter sent by the Clerk on May 7, 1952, including the list of organizations to whom the letter was addressed, be incorporated in today's evidence.

On motion of Mr. Pearkes,

*Resolved*,—That permission be sought to increase the number of copies to be printed of the Minutes and Proceedings of this Committee from 1,000 copies in English to 2,000, and from 250 copies in French to 500.

Mr. Bates was recalled for further questioning, being assisted by Mr. Clark and Mr. Ozere.

The witness retired.

The Chairman informed the Committee that the Sub-Committee on Agenda and Procedure would be called together before May 27 if the replies from the organizations invited to make representations warranted such action.

At 12.15 o'clock p.m., the Committee adjourned until Tuesday, May 27, at 11.000 o'clock a.m.

A. SMALL,  
*Clerk of the Committee.*



## EVIDENCE

May 6, 1952

11:00 a.m.

The CHAIRMAN: Gentlemen, the meeting will please come to order. We have a quorum. I would like to say to those who were not present at the first meeting that we had an organization meeting at which it was ordered that a sub-committee be selected, and in accordance with that motion I would like to announce the selection of that sub-committee on agenda and procedure which will act with me. The names are as follows: Messrs. Applewhaite, Gillis, MacNaught, Pearkes, Stuart (*Charlotte*), and Thomas.

You will remember that at the first meeting Mr. Stuart (*Charlotte*) was elected as vice-chairman of the committee. Your sub-committee met and I would like to present to you its first report:

MAY 5, 1952.

Your Sub-Committee on Agenda and Procedure met on May 5 and has agreed to recommend:

1. That the Draft International Convention for the High Seas Fisheries of the North Pacific Ocean be printed as an appendix to the Minutes of Proceedings and Evidence.
2. That the statement of Mr. Stewart Bates, Deputy Minister of the Department of Fisheries, on the said Convention be heard on Tuesday, May 6 and, if possible, that the hearing of his statement be concluded by Saturday, May 10.
3. That, after Mr. Bates' statement has been heard, the Committee adjourn, for approximately 3 weeks, until Tuesday, May 27.
4. That the Clerk of the Committee be instructed to communicate during the adjournment with the interested organizations whose requests to submit representations or give evidence have been tabulated by the Department of Fisheries.

This report is now before the meeting, gentlemen, and a motion that it be concurred in is now in order.

Mr. PEARKES: I so move, Mr. Chairman.

Mr. MOTT: I second the motion, Mr. Chairman.

The CHAIRMAN: You have heard it moved and seconded that this report be now concurred in. Is there any discussion on the motion?

Mr. PEARKES: Regarding the suggestion contained in the report that interested parties be invited, I would just like to refer to a communication which I have received from the United Fishermen and Allied Workers' Union, in which they say that not only does their organization wish to come, but they also suggest such organizations as the Canadian Fishing Vessel Owners' Association in Vancouver and Prince Rupert, the Native Brotherhood of British Columbia, the Fishermen's Co-operatives in Vancouver and Prince Rupert, and the Deep Sea Fishermen's Union in Prince Rupert be communicated with; and I believe such information has already been sent to the deputy minister, because the intimation is that they have communicated that similar information to Mr. Bates.

Mr. MACNAUGHT: All these names are on the list that we have already compiled, Mr. Chairman.

The CHAIRMAN: Following perusal of that list, if the names of these people, which General Pearkes has just read, have not been included, we will get in touch with them and give them a chance to appear. Is there any further discussion on the motion?

You have heard the motion. All those in favour please say "aye"? All those contrary minded will please say "nay". I declare the motion to be carried. Now, perhaps Mr. MacNaught, the parliamentary assistant, might give us his views on the dates of the adjournment and the reason it is needed.

Mr. MACNAUGHT: Mr. Chairman, as you have already pointed out in the report of the sub-committee on agenda and procedure, I think we should adjourn for at least 3 weeks to permit interested parties in British Columbia to prepare their statements and to make arrangements to come here and give their evidence; and I think it was agreed in the committee that that was a reasonable suggestion. I do not think I can add anything further.

The CHAIRMAN: You think that will give them sufficient time, 3 weeks?

Mr. MACNAUGHT: Oh, yes; it was the impression of all the members from British Columbia, that 3 weeks would be ample.

Mr. MOTT: When will these notices be going out?

Mr. MACNAUGHT: Whenever we adjourn, either on Thursday or possibly today.

Mr. MOTT: I think we would need 3 weeks because a lot of these fishermen are at sea, or are along the coast; so I think that 3 weeks from the date of adjournment would be adequate.

The CHAIRMAN: Regarding the organizations which wish to make representations to the committee, it has been thought advisable that requests should possibly be made regarding the filing of briefs before the committee.

Mr. APPLEWHAITE: Mr. Chairman, I move that all organizations wishing to make representations to the committee be asked to file, if possible, at least 50 copies of their briefs in advance of May 27, and that such organizations indicate in their replies to the committee whether or not a representative will appear to give evidence.

I would suggest, if I may, that I be permitted to remove from that motion the last 3 words, "to give evidence." I do not think these people are coming here to give evidence. I think they are coming here to make arguments, and I think that if we stop at "wish to appear", it would be a better motion.

The CHAIRMAN: Is it agreed to strike out the last 3 words "to give evidence"?

Mr. PEARKE: Some of them may give evidence of conditions as they exist on the Pacific coast, and I think they will support their evidence with argument.

Mr. APPLEWHAITE: If you leave it open, they can give evidence; but I do not want to create the impression that they are to come here as witnesses to give evidence. We will have the deputy minister giving evidence, and he will not enter into a discussion of government policy. These people will have the right to do that and they will produce both evidence and argument, possibly. So I suggest that if we say "if you wish to appear", they will be able to give either evidence or argument, but I would not wish to support the idea that everything they say will be evidence.

Mr. BALCOM: Evidence will automatically be given. It is automatic, is it not?

Mr. BLACK: I do not see any objection to allowing the words to remain.

The CHAIRMAN: You are making the motion, Mr. Applewhaite!

Mr. APPLEWHAITE: If we make that motion—and I do not want to be technical about it—we are telling them that they can come here to give evidence. I am not too anxious that they should; but we are certainly inviting them to come here so that they can, if they wish, argue. But if we bring them here only to give evidence, then, perhaps, if that motion should go through in its original form, they would be restricted to evidence. But I think they should be permitted to argue, which is not the same thing.

Mr. PEARKES: Surely it is better to have the evidence given before this committee. This committee is not set up in order that there may be argument for or against government policy. People come here to give evidence which may support or be against government policy. It is possible that they will re-enforce their evidence by argument, but I do not think we should invite people to come down here solely to argue about government policy.

Mr. MACDONALD: Mr. Chairman, Mr. Applewhaite has moved a motion but his motion has not been put yet. It is a motion regarding the last 3 words that are there; that is Mr. Applewhaite's motion; but he can suggest that these people are coming here to give evidence in support of the briefs which they are going to submit.

Mr. MACNAUGHT: I think the whole matter could be cleared up by adding the words "to give evidence and make representations". Instead of cutting out 3 words, I would add 3 more.

Mr. PEARKES: I think that is right. Do you want me to second it?

The CHAIRMAN: The motion is proposed by Mr. Applewhaite and seconded by General Pearkes, and it reads as follows:

That all organizations wishing to make representations to the committee be asked to file, if possible, at least 50 copies of their briefs in advance of May 27, and that such organizations indicate in their replies to the committee whether or not a representative will appear to give evidence and to make representations.

Mr. BLACK: Perhaps the deputy minister will give us the details of what representations they will likely make.

Mr. GILLIS: How can he anticipate that?

Mr. BLACK: So that we can understand what they are coming here to say.

Mr. MACNAUGHT: Are you referring to the deputy minister?

Mr. BLACK: Yes, if you are the deputy minister.

Mr. MACNAUGHT: No. I am the parliamentary assistant.

Mr. BLACK: Or the deputy minister, whoever is preferable.

The CHAIRMAN: This matter that you have brought up, Mr. Black, is really the next item of business, and if you would allow it to remain until that item is called, I would appreciate it. Is there any further discussion on this motion? I shall now put the question. All those in favour will please say "aye". Those contrary minded will please say "nay". I declare the motion to be carried.

I am pleased to announce that we have in attendance here today Mr. Stewart Bates, the deputy minister of the Fisheries Department, and I would like now to call on him to give his statement to the committee and also ask if he might take up the matters which have been spoken of in the committee by Mr. Black.

**Mr. Stewart Bates, Deputy Minister, Department of Fisheries, called:**

The WITNESS: Mr. Chairman and gentlemen: The matter before the committee, the draft Convention for the North Pacific, is a matter of some complexity and I should like to say something in beginning about the background against which the treaty might be considered.

I think the essence of the problem relates to the fishing resources on the high seas. Traditionally the high seas have been regarded as free, free for navigation, and free for fishing.

The particular resources with which we are concerned spend most of their lives in the high seas, and as such they are open to the fishermen of all countries. That concept of the freedom of the seas is, I think, one of the basic concepts of freedom in the minds of men, and it has certainly been so since the 16th century.

Now, in the fisheries on both our coasts, some of the largest bodies of fish spend most of their time in the high seas. In some particular types, they come in shore to spawn. Some may spawn in territorial waters as herrings do, while other types go right up stream to spawn, salmon being the most notable instance. And we begin to feel that we have some propriety right in this fish which spawn in our own waters or in our streams, especially after the government spends money protecting and clearing the streams. After we ask other users of those streams such as power plants to take action for the protection of those fish, we begin to feel we have a proprietary interest. But nevertheless an interest remains in the high seas, and most nations regard these fish as freely swimming resources.

Now the question of territorial waters is basic to every nation that is sea-girt. Many nations with the sea around them no doubt want to try to extend their territorial waters as far as possible, that is, the waters in which they claim the same jurisdiction as they do over their land territory, a jurisdiction not only over their own nationals, but over foreigners; and the committee knows, of course, that territorial waters cover many more things than fish. They cover customs. There are national defence concepts involved, and there are many departments other than fisheries which are interested in the extent of our territorial waters.

In Canada as in the whole commonwealth and as in the United States and some other countries, territorial waters have been measured traditionally on the basis of the 3 mile limit; the 3 mile limit measured from meanderings of the coast. That is the traditional British-American measure. It is accepted broadly internationally. But some countries have long claimed different measures, such as the four mile limit, and in some instances that has been recognized. Others have claimed the 6 mile limit, and still others the 12 mile limit. But the fact remains that in our country and in our neighbour's country the 3 mile limit has been the traditional measure.

If you start from the basic presumption that the seas are free outside the 3 mile limit, you immediately have a major problem in fisheries because the seas are free, there is a danger with respect to fishing and that danger is probably greater today than it has ever been. It is a danger which was recognized on the west coast of this country, and steps were taken to try to prevent it.

On the Atlantic and on the Grand Banks of Newfoundland, St. Pierre, Sable and Brown's—on these banks there has not been, up to the present, evidence of over-fishing of the basic species. But for the first time in history we have evidence of over-fishing on one of the Atlantic banks, George's Bank, and this year for the first time the Americans will have to enter into a type of regulation on this Bank that has been common on the Pacific.

Now, clearly, if the resources are to be conserved, you can only approach it internationally by some co-operative measure, and we have some good examples of such co-operation. The first attempt to regulate anything on the high seas was made in 1911 by Canada, the United States, Japan, and Russia, when there was an attempt to conserve the fur seals. That was the first such attempt to conserve something on the high seas. It was a very easy thing to conserve because the species breeds on one or two islands, and all you had

to do was to stop killing seals on the high seas, allow the species to restore themselves on the islands, and kill them there in whatever numbers were proper. That was a relatively simple conservation problem.

The next example was again Canadian, between Canada and the United States, in halibut on the Pacific coast, which is a very rich fishery, at one time producing 70 million pounds of halibut per year. But that fishing gradually declined. At one time they fished them just off Vancouver, and then they had to go further afield; and by 1920 they were even further away, as far as Alaska and the Aleutians, and the catch had fallen to 37 million pounds.

Canada signed her first treaty in her own right, the Halibut Treaty with the United States. And gradually the stock has been built up. The catch is now 56 million pounds. It was an effort by both Canada and the United States, but again it was not too difficult, because no other country was fishing halibut. It was only the United States and Canada. Japan, Russia and other Asiatic countries were not fishing these waters, so it was a matter between the two of us. We simply conserved it, and we allowed our fishermen a certain quantity. Actually in practice the catch quota is about 55 million pounds today, but there is no regulation as to the division of the quota between us, although there is an over-all quota for both Canada and the Americans.

The next example is that of whales, the International Convention for the Regulation of whaling. A great many countries entered that convention which followed broadly the Canadian-American agreement for halibut. It divided up the oceans, setting out nursery areas for young whales, and it set an over-all quota. But again the fishing is free to any country, actually. While the catch is free to any country, you can go after it with any number of ships you wish to use, but as soon as it is reached, the fishing is cut off by the international commission. But there is no sub-division between anyone.

The next example again is on our Pacific coast, with respect to the sockeye salmon of the Fraser river. You all know the history of the slide at Hells Gate, which resulted when the Canadian National line was built and the subsequent decline of that river with respect to salmon fishing and the attempt to bring it back. This was a Canadian river. Perhaps we could have brought it about alone, but the Fraser river salmon is quite electric; it comes in around the southern end of Vancouver island primarily and it goes through Canadian waters and then it crosses back into American waters in the Juan de Fuca strait. It stays there for 3 or 4 days, subject to American fishing, and then it comes back to Canadian waters at Boundary Bay. Therefore to regulate that fishing there was required a joint undertaking, and that was done.

The next example of a co-operative effort was the Northwest Atlantic Fisheries Commission which was set up in 1949 primarily under the leadership of the United States and Canada. European countries were brought in which have very large fishing, such as Spain, Portugal, Italy, France, the United Kingdom and Norway. They fish the whole Atlantic from the Davis Straits down to Long Island. It is a very large fishery and it is growing in intensity and in numbers, and it uses the most modern equipment imaginable. For example, to sail one of these boats, the skipper almost has to be a university graduate. His wheel house is really a complex mechanism, with every modern device aboard for catching and killing fish. I suppose the committee is aware of the tremendous revolution during the last 10 years, especially in Atlantic coast fishing. Today these fishing craft are trans-oceanic in character; they are almost factory ships, or just one stage removed from it. They have new types of gear. In distinction to some years ago, they can float their gear at any level where the fish happen to be. They can fish now at any level down to 300 fathoms. Moreover, in the wheel house you have such modern devices as lorans and asdics.

A few weeks ago the British began to equip their fleet with a still further device in the wheel house which focuses one's attention at any level or elevation down to 300 fathoms. If you want to see at 50 fathoms down, you simply focus the fish-lens. You can then see what volume of fish are there and what kind. This enables you to float your gear with still more precision. Those of you who followed the finding of the submarine *Affray* last summer will recall that it was a British Admiralty scientist who found her by means of rigging up an underwater television camera for the first time in history. The rig up was quite a complicated procedure. Some of you may have seen the photographs which were taken as they sat in the wheel house and looked into the television screen. Gradually they picked out the conning tower, and then they moved the camera around until they saw the brass letters which typify Her Majesty's Navy nameplate. For the first time you can sit in the wheel house and see under water, and this device will be used some day by the fishing industry, and the marine biologists.

The new development of fishing techniques is forced on the hungry nations, and the hungry nations are on the other side of our oceans, on the other side of the Pacific and the Atlantic. The resources are in the seas, and they can fish them. And with these, they can earn either dollars or sterling, because they can sell fish in either dollar or sterling markets. They can turn them into either frozen fish, packaged fillets, or into a salted product. On the Atlantic, in 1949, Canada, the United States and the European countries set up a Northwest Atlantic Commission to try to handle the forthcoming conservation problems on the Atlantic. These are straight conservation measures, attempts to conserve species in the sea. And as I say, these measures have been very successful on our Pacific coast, where there are primarily just two countries interested.

The experiment on the Atlantic will be an interesting one, where there are 10 nations involved. That commission is a straight conservation commission with no regulatory powers. But probably it will have to look ahead to some modifications because there are other problems on the Atlantic such as the rule of the road, where you have many nations fishing on the banks, and where there may be the tangling up of fixed gear. That is a different kind of problem, a growing problem of complexity on the Atlantic.

Fishing is now being done down to the 3 mile limit with absolute precision. It is not like some years ago where there was doubt. When our patrol ships questioned a foreign vessel fishing on the south coast of Newfoundland a few weeks ago, our patrol officer spoke to the vessel by radio telephone and said: "You are very close to the 3 mile limit"; and they replied: "We know that; we are exactly 250 yards from the 3 mile limit, because we have just taken our bearings." So you see, they can fish precisely down to that limit.

Perhaps it is a little far afield from the Tripartite Convention of the North Pacific but I feel this is all part of the complexity of the problem, and a major concern to the people of Canada and the United States in the future, because the great resources of the world are off our coasts.

On the other side of the oceans the hungry nations fish intensively in their own waters, and they are coming across the ocean, particularly the Atlantic, to fish the resources adjacent to our shores. We and the United States may have to establish conservation and regulation of those fisheries. Some day we may wish to use those resources in a bigger way than we are doing today.

Now the essence of the problem is this: With free fishing on the high seas can you conserve the species by a conservation program established under an international agreement? The next question is: If two countries conserve a stock by agreement, and a third country comes in to fish that resource, what can you do about it? The third country is fishing on the high seas and

she is free to do so, yet we and the United States, in the case of halibut for example, have built up this stock; we have put that money in the bank. We regulate our own fishermen and allow them to fish less than they want to. In some cases we regulate the season. With salmon we close them down for 72 hours each week; the fishermen and the canneries are idle as the salmon are given a week-end to move up-river to the spawning grounds. The fishing industry makes a contribution to conservation in that kind of way. And if the governments and the industry built up such stocks, how can you prevent a third party taking it?

There have been suggestions made that you should extend your territorial sovereignty out into the high seas. Some years ago, in 1945, a proclamation was made by Mr. Truman in the United States, which many people thought amounted to just that: That the United States would declare sovereignty over the high seas adjoining their coasts. Some other nations interpreted it that way, particularly Latin American nations, and they issued a declaration in turn, much more precise than the American. Some of them declared that they would exercise sovereignty zones over from 150 to 200 miles out to sea; that they regarded the zone as territorial waters, and that other countries were to refrain from fishing therein. The United States State Department was quick to point out to those countries that the United States would not respect any such unilateral declaration of sovereignty over the high seas by any single nation. She indicated that she viewed with sympathy their desire to conserve and perpetuate particular fisheries, but she argued that any such extension of sovereignty was at variance with principles of international law, and that she would not respect these declarations by other countries. Later the State Department made a statement (29 Nov. 1948) that we should "Note carefully there was no mention in this proclamation of an extension of sovereignty beyond territorial waters, nor an exclusion of fishermen of any nationality from any fishing". In other words, whereas some people thought that the United States was enunciating a new principle in international law when she made the Truman declaration, in fact she was not. In fact all she was saying was that she was willing to set up conservation zones with other nations for the conservation of fish.

So you will not find a solution simply by trying to extend your territorial waters out to sea. You may make a declaration extending your territorial waters, but if other countries will not respect your declaration, what do you do? You either back down, or you fight.

It has been suggested that we should make such a declaration from many points of view, and that it would be a very nice thing if we could say that our territorial waters extended out, let us say, 600 miles from Nova Scotia, covering the Grand Banks of Newfoundland. That would be very satisfactory in containing a part of the world resources for Canada. But for the reasons I have mentioned above, that is impossible. So we have to seek a solution by some other means.

It has been suggested on the Pacific coast that we set out a zone of 50 or 150 miles; but the same problem arises, and on the Pacific perhaps it might be unwise, even if you could do it. Of all the countries bordering the Pacific, Canada has, I think, the shortest shore line. Our shore front is only some 600 miles on the Pacific; we have only a short water front, compared with the United States, Chili, Russia, Japan, China, and the Philippines. And if the Pacific were zoned on the basis of territorial waters, our zone would be one of the smallest. And even if we could zone it, to do so might be unwise, because already our fishermen fish outside that zone.

So now we get to this particular convention which is an attempt to carry forward the idea of conservation on the high seas, and an attempt to get international recognition of the fact that when one or more nations have conserved

the fisheries as we have, other nations will recognize that we have acquired certain rights to that fishing. It is an attempt to get other nations to recognize that, when a stock has been built up, as we have built up the salmon, halibut, and herring, it is only right and proper that they should restrain their nationals from fishing these resources, because if they did not, we would no longer conserve it. I think that would be an inevitable consequence if a third country began fishing Pacific halibut, it would be very difficult for us and the Americans to continue to restrain our fishermen and to build up stock. It would make conservation, perhaps, impossible. Of course, the third country might come in and say: We will enter the halibut convention just as we would enter the whaling convention. We will fish halibut, and when the quota is reached, we will stop fishing along with you, just as we stop fishing whales, when the quota is reached. So the new convention had to move a step beyond that: It had to find a new solution along different lines.

Now this matter has been under discussion between Canada and the United States informally for some years. It has been discussed between the United States State Department and our Departments of External Affairs and Fisheries, and the many ramifications of our attempts to preserve for ourselves the resources which we have built up have been discussed over a long time. The tri-partite conference in Japan brought those discussions to a conclusion. When we went to Japan with the United States to discuss the North Pacific ocean problems and the convention, the draft that was proposed was a product of those Canadian-American discussions over a long period of time. As I shall try to explain later, that draft contained within it also some very important principles that had been inserted at Canada's insistence.

The first step in extending conservation agreements with a third country was an attempt to bring in Japan. Of the nations on the Pacific, she was the one most likely to begin fishing on our side. She is traditionally a big fishing power. Eighty per cent of her protein comes from the sea; she has a big population and she must get as many of the free resources of the world as possible. She had lost her salmon fisheries at Kamchatka to Russia and she had lost her salmon fishing area along the Kurile Archipelago. Japan knows how to fish and it was expected that she would immediately, upon regaining her sovereignty, begin fishing across the Pacific. We had thought at first that we might try to get a clause in the Japanese Peace Treaty to cover fisheries, but on discussion with the United States—and our own Minister discussed it very fully with Mr. Dulles—it was found impossible. Every nation bordering the Pacific had its own ideas as to what fisheries restrictions should be imposed on Japan in the Peace Treaty. And to have tried to include such a clause in the Peace Treaty would almost have turned the Peace Treaty into a fisheries treaty; there were so many conflicting views. Every country on the Pacific basin—Australia, Indonesia, Korea, China, Hawaii, Latin America—realized that Japan did or might fish off their shores; and each of them had its own ideas as to how she should be circumscribed.

Therefore in the Peace Treaty there was inserted only one clause, which stated that Japan would enter, as soon as possible, into conservation agreements with other countries. She made that undertaking. The United States, through an exchange between Mr. Dulles and the Japanese premier, Mr. Yoshida, made an agreement in February, 1951, under which Japan undertook to enter into a conservation agreement on fishing, and under which she would meanwhile abstain from fishing off our coasts. In other words, the Dulles-Yoshida agreement made a commitment with Japan even before the signing of the peace treaty, in which she would abstain from fishing off our coasts until such time as the fisheries convention was signed.

Perhaps a new fisheries convention in the North Pacific might have included other nations, but the times, however, were not quite propitious for the broad

entry of many countries. And it was felt, moreover, that Japan was the country most likely to begin fishing on our side of the ocean. It was felt, furthermore, that Japan would, if she accepted this principle, provide an important precedent which we could use if any other nation might consider crossing the Pacific to fish our main species.

That meant that the kind of convention we would make with Japan, had to be a convention that would be acceptable to her, because whatever kind of agreement she made with Canada and the United States, she knew that she might have to make similar ones with Russia, China, Korea, Indonesia, and Australia. So every clause in this treaty was considered by the Japanese in terms of its possible Asiatic application.

In a nation like Japan there is a necessity for emphasizing the concept of the freedom of the high seas. It would not have been possible to make an agreement with Japan simply in the terms of saying: You stay off our coast, and we will stay off yours. That might have been forced on her by the Peace Treaty as a punitive measure, but as a free nation, she would not consent to any such agreement because, if she agreed to stay off the coast of Canada and the United States, then Russia and other countries would all have insisted on the same kind of treaty. She would then have had no seas left to fish.

In other words, there is no point in anyone saying we should have made a treaty with Japan in which she agreed to stay off our coast and in which we agreed to stay off hers. She simply would not agree to make that kind of treaty. So it had to be something different from that, to be accepted by a free country with sovereign rights. For the purposes of this treaty she was given, by the Supreme Commander, *ad hoc* sovereign equality with the United States to make this fisheries treaty before she had her full sovereignty restored. So this was the first treaty which she made as a free nation, and it was a precedent for any other fishery treaty that would be made. Therefore, in our getting a treaty with Japan, we had to find a set of principles that she would accept and that would give us the protection we wanted for our main species: A set of principles that could not be used against us at some other time, perhaps in the Atlantic or off some other shore.

As John Donne said: "Never propose to thyself such a God as thou art not bound to imitate." So neither we nor the United States could propose policies for the North Pacific that we were not willing to have enforced against us in the China seas or the South seas or anywhere else. Principles had to be found to satisfy these conditions. The principles came out of the conservation programs we already had with the United States, and the heart of this treaty is in article IV where the principles are set out. Article III is the machinery for carrying through the principles.

Those two articles are the whole heart of the matter with article IV setting out the principles. We felt that the kind of principles that could be sold to any country were these: That where one (or more) nations has conserved fisheries, then it could rightfully ask others to abstain from fishing that resource—even if that resource is on the high seas. That was the broad first principle. It had to be made a little more specific and it is stated in three parts. Where a fishery is under detailed scientific investigation, where it is regulated—that is by one or more countries—and where it is fully utilized, then when those conditions apply together, the countries which have carried those things through, may ask other nations to abstain.

There are not a great many fisheries in the world meeting those principles. Now, the reason for the three conditions are obvious. We think before any nation can be asked to abstain from a fishery that that fishery should be under close scientific investigation, that it should have been studied by the biologists, and that the country or countries should have taken steps for maintaining the yield of that fishery, by regulation.

You know what we mean by the regulation of fisheries. There are several steps you can take. You may impose closed seasons on your fishing; you may close it for the week-end as you do on the salmon runs; or you may close it for several months. You can also regulate the gear that is used. You may say that the maximum size of nets will be four inches or two inches or three inches—to allow for the escapement of young fish. You can take steps to protect the immatures or the females—as you do with lobsters. You may impose size limits and say that no fish under certain size can be taken. You may impose a quota as we do with halibut and say that 55 million pounds will be taken and then the fishery will be closed. That is what we mean by regulation.

The third principle is that the fishery is already utilized, that it is being fully fished, and that there is no more fish available for some third or fourth power; that the country (or countries) using that fishery even on the high seas is using it fully. No one can then say: You are managing it but you are not fully using it, and we, as hungry people, should have those proteins.

Those are the three principles set out, as I say, under article IV. They are 1, 2, 3, on page 12.

Now, there are exceptions to those principles also shown on page 12. They set out cases where a country cannot be asked to abstain.

The first exception there refers to the historic fishing interests of some countries. If a country has had an historic interest in a given fishery, no recommendation should be made to it to waive its right to fish that stock. It says:

Any stock of fish which at any time during the 25 years next preceding the entry into force of this convention has been under substantial exploitation by that party having regard to the conditions . . .

That is to meet the case where a country has had an historic interest.

The second exception has to do with stocks of fish that are fished in greater part by countries other than the parties to the convention.

The third exception here is the most important one from the point of view of Canada. In other respects the treaty leaves many situations unchanged. This treaty does not refer to questions of territorial waters. A specific clause was inserted early stating that nothing in this convention shall be deemed to affect adversely the claims of any contracting party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries. As far as such questions go, they are well affected by this treaty.

Canada had to insist on proviso No. 3 of article IV. There are older nations whose fishermen have roamed the seas farther than we have and who have established historic fishing rights off our coasts. On the Pacific, for example, we are surrounded by the United States—the state of Washington on the one side and Alaska on the other. The main salmon runs to our rivers, touch American waters. The Americans have traditionally fished off our coasts—off the west coast of Vancouver Island, in Hecate strait, and off Queen Charlotte islands. Under proviso 1 the Americans can never be asked to abstain from fishing in resources off the Canadian coast because they have fished there historically. We, however, have very few historic fishing rights off the coast of the United States. We have had halibut vessels going to the Aleutians and we have had pilchard vessels going down to Washington but, actually, we have fished very little off the territorial waters of the United States.

We had to recognize that if these principles of exclusion were able to exclude Japan from certain fisheries off the American coast they might also be used to exclude Canadian fishermen if at some date our fishermen wished to fish species moving into the Alaskan territorial waters or our own. We had

to try to ensure that the treaty would not exclude us, because after all these fisheries from the Alaska border right down off our coasts and off the United States coast are almost one fishery.

We have conserved halibut with the Americans. We have a treaty together on sockeye salmon. We conserve herring that the American fishermen may take. The fish that come into the Skeena River are in part taken by Americans. The fish going into Puget Sound streams are in turn taken partly by Canadians. Sockeye, pinks, chum, cohoes and those species are out mingling around—an intermingling fishery. Our operations are intermingled and we fish together. We use the same kind of gear, the same kind of people, and have the same standards of living. Both Canadian and American fishermen are alike in methods of fishing and standards of living. It is a single fishery.

There are other things we and the U.S.A. do together, gentlemen. On all our scientific work there is joint discussion with the United States without benefit of protocol. It simply goes on between the scientists. When we are opening and closing seasons on the coasts our chief supervisor works with the American supervisor in Alaska and the state of Washington on the same rules and principles. We manage the fisheries, even those on which we have no agreements—like pinks. We manage them together. We have reciprocal port privileges. We allow Americans to land fish under bond at Prince Rupert, pass them through to the United States. The Americans have established a historic right to fish off our coast. We have not yet established historic rights on a good part of theirs, and we had to insist on proviso number 3 so there would be no possibility of any question ever arising as to the exclusion of Canadian fishermen from the runs of salmon or other species into American waters. It is set out here as a kind of principle. No abstention can be recommended with regard to: "Waters in which there is historic intermingling of fishing operations of the parties concerned, intermingling or the stocks of fish exploited by these operations, and a long established history of joint conservation and regulation among the parties concerned so that there is consequent impracticability of segregating the operations and administering control." In such cases no one can be asked to waive right. The next clause makes it completely specific. "It is recognized that the conditions specified in subdivision (3) of this proviso apply to Canada and the United States of America in the waters of the Pacific coasts of the United States of America and Canada from and including the waters of the Gulf of Alaska southward and, therefore, no recommendation shall be made for abstention by either the United States of America or Canada in such waters."

Now, gentlemen, what this convention is doing is setting up what may amount to a new principle in international law—a principle under which countries can be asked to abstain from fishing. We are willing to have these principles applied against us wherever they can rightfully be shown to apply; but in this treaty this proviso means that from the Gulf of Alaska—that is from the Aleutian Islands southward, no matter what conservation is undertaken, no matter what species are considered—pilchards, ground fish or what have you—Canada can never be asked to abstain from fishing in any part of that area.

As I say, that is the important proviso in the Canadian terms. In the annex to this convention, there is one part of the Pacific in which we did agree to abstain from fishing, and that is an area inside the Behring Sea; it might make it a little easier for the group if I hold up this map to illustrate it for you. The members might see that here is the area in which there is abstention, as far as Canada is concerned. Now, inside the Behring Sea, east of 175° West longitude is the area in which Canada as well as Japan have agreed to abstain from fishing salmon; that is, the stock of salmon going into Bristol Bay in Alaska. The abstention refers to salmon only. A Canadian

fisherman can go in there and fish any other species that he pleases. If he wants to go all that distance to fish salmon—which he has never done—he only has to cross the 175° line, and he can still fish salmon to the westward.

Now I would like to say a word about the drawing of that line. Japan has, of course, agreed to abstain from fishing salmon, halibut and herring throughout the whole of the Eastern Pacific area. And we have agreed to abstain from fishing salmon in that one spot in the Behring Sea. But Canadians have never gone so far for salmon. They have never even fished salmon in any quantity along the Alaskan coast. In this Behring Sea area, the problem was essentially one between the United States and Japan; there is apparently some intermingling of the salmon races going to Alaska, and those going to Kamchatka. The salmon intermingle somewhere around there, I mean the two races, the Alaskan race, and the Asiatic race. The Japanese who fished salmon on the high seas very effectively have wanted to catch the Asiatic run, and probably some of the Alaskan run, if they could. The United States wanted to make sure that the Japanese would take none of the Alaskan run. Now just where the population mingle, or where they divide themselves up is not too well known. The Americans have not fished there. They have always waited until the salmon came into Bristol Bay. But somewhere off there in the Sea there is an area where the two races probably intermingle, but nobody is too clear as to where it is. The Japanese wanted to draw the line close to the American side, while the Americans wanted it to be close to the Asiatic side. Therefore, 175° West longitude was a compromise. We suggested another compromise in the nature of a corridor down the middle, with nobody fishing in the corridor, and each fishing outside the corridor. But a line was drawn, and that line is only a provisional line.

The commission set up under this body is requested in the Protocol to investigate that part of the salmon fishery; First, to investigate the intermingling of species and to determine the best way of dividing up that area. Now, if the commission finds that there is an intermingling of the Bristol Bay salmon stocks with other salmon stocks, and if they find there is an intermingling of the stocks in this area from which we have abstained with other areas of Alaska, then Canada can no longer be asked to abstain from fishing even in Bristol Bay, under this proviso.

Now, in the treaty itself, the Japanese accepted the fact that salmon, halibut, and herring met the three principles; that is, they are under scientific investigation, under regulation, and under full utilization; and Japan agreed that they would abstain from fishing these stocks immediately. These stocks are placed in the annex to this document for five years, when there will be a review of the situation. At the end of five years of the commission that is set up here will review these three stocks and will judge if Canada and the United States still have them under scientific study, regulation and conservation, as well as full utilization. And if we and the United States still have them under the 3 principles, then Japan will continue to abstain from fishing salmon, halibut, and herring; and I take it that we are pretty sure to have them still under utilization, scientific investigation, and regulation at the end of five years. So it looks as if we can be pretty sure that the Japanese will abstain with respect to these three main stocks for the duration of the treaty, which is 10 years.

Now, that is a fairly important conclusion. On our west coast I think it is true to say that the main fears of the fishing industry for 20 years have been of Japanese fishing from across the sea and the fear that they would fish salmon, halibut and herring. These three species form the back-bone of the British Columbia fishing industry. Perhaps they make up 85 per cent of all our production and value. The treaty, therefore, if it goes through, gives to the British Columbia industry protection on these three species for

5 years certain, and for 10 years, and thereafter if the treaty continues in effect, so long as we continue to conserve them; and it gives them protection from the Japanese. That is an important step.

It may be that some other country will come in and fish during that period, but if so, the parties to this convention will have to meet with that country and try to get her to agree to similar regulations and similar terms. We have a precedent established, a step has been taken in a new direction, and a gain has been made.

Now the convention is set up so that we start out with three main species protected in that way; but any other species of fish in our North Pacific may be brought within the terms of this agreement, whenever it meets these conditions; that is, for example, if we alone, or we and the United States could indicate, for example, that pilchards met these three conditions,—under scientific research, fully regulated, and fully utilized,—we could have pilchards brought into the picture and ask the Japanese to abstain; or, if our own flat-fish industry comes under regulation, it could be brought within the principles. I know that many fishermen would have liked to see other species of fish on our coast brought within these terms and the Japanese excluded; but in the case of flat fish, for example, they do not yet fulfil all these three conditions. We have some scientific investigation on them but there is practically no regulation yet, because they have not needed it, and there is no suggestion that they are under full utilization yet. There are some species, therefore, that may be brought within the treaty when they meet the conditions. But so long as they are not brought within the treaty, the Japanese are free to fish them. In other words, the Japanese are not excluded by this treaty from the high seas, on our side of the Pacific. They could come across the ocean to fish any species not covered here; they could come across to fish flat fish, for example. There may be some question as to whether or not that would be economical.

The other articles included here are to try to give us maximum protection, shall we say, if the Japanese were fishing here, such as the right of boarding her vessels, to see that only flat fish were being taken and none of the species which are excluded under the treaty; the right of boarding and patrol. So we did not in the treaty gain 100 per cent exclusion. But the Japanese have never fished our coast and it is doubtful if they would come to fish for species which are as limited as those other varieties are, and we have, as I say, protection for the back-bone of our fishing industry.

In the Behring Sea crabs will be fished by the Japanese, and by the Americans. Under the treaty they may ask for conservation of crabs. If Japan and the United States conserve crabs in the Behring Sea, if they regulate it and efficiently utilize it, there will come a day when the Canadian fishing industry would be asked to abstain from fishing crabs in the Behring Sea; and that day may come; but meanwhile, if our industry wishes, it can develop all those resources, and enter the crab fishery.

Now, Mr. Chairman, there are not a great many other things to say and if the committee can bear with me for another 10 or 15 minutes, I think that would complete it.

The CHAIRMAN: I think so, Mr. Bates.

The WITNESS: That is the important part with reference to this treaty.

The other part is covered in article 3 where the commission is set up. This commission has two functions; on the one side it is a kind of judicial body set up to determine what species of fish meet these principles; whether they continue to meet them, or whether new species can be brought in. There is one vote for each country. We can select, up to 4 commissioners each, as we please, but there is just one vote for each country.

The second function of the commission is research to handle any species that are not already covered by treaties. We already have a commission on halibut, and sockeye salmon with the United States; but this new proposed commission is a body for dealing with conservation of any species in the North Pacific between two or three of the parties. Supposing we and the United States wish to do some special conservation work together on pink salmon; we can under this commission, without Japan being interested, proceed under this Convention without setting up a new body for this specific purpose. So instead of having to come to the House of Commons for some new convention on each species, this commission is wide enough in its terms to include any particular new species that may require conservation. Of course, we would still have to come to parliament for money to extend such operations. But the machinery is set up for an investigational commission much the same as the Northwest Atlantic Commission (which is an investigational body covering all species, and bringing in all parties). This commission would be in part a research commission, with the power to make recommendations to the government for regulations, just as the Halibut Commission has the power to recommend broad regulations necessary for the restoration and maintenance of that stock.

The preamble sets forth the general principles of freedom on the high seas, and the main purposes of the document. Article 1 subsection (1) defines the area, which is really the whole of the North Pacific ocean, that is, from the equator northward.

Article 1, subsection (2), is the clause I have referred to already which says:

Nothing in this convention shall be deemed to affect adversely (prejudice) the claims of any contracting party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries.

Article 1, subsection (3), is simply a definition of "fishing vessel".

Article 2 sets up the commission named in clause 1.

Article 2, subsection (2), says that there shall be 3 national sections.

Article 2, clause (3), says:

Each national section shall have one vote. All resolutions, recommendations and other decisions of the commission shall be made only by a unanimous vote of the three national sections except when under the provisions of article 3, section 1 (c) (ii) only two participate.

That would be, for example, two participating in an investigational program in some species.

Article 2, clause (4), reads:

The commission may decide upon and amend, as occasion may require, by-laws or rules for the conduct of its meetings.

Article 2, subsection (5), reads:

The commission shall meet at least once each year and at such other times as may be requested by a majority of the national sections. The date and place of the first meeting shall be determined by agreement between the contracting parties.

Now, turning to page 8, article 2, clause (6), says:

At its first meeting the commission shall select a chairman, vice-chairman and secretary from different national sections. The chairman, vice-chairman and secretary shall hold office for a period of one year. During succeeding years selection of a chairman, vice-chairman and

secretary from the national sections shall be made in such a manner as will provide each contracting party in turn with representation in those offices.

Those officers are to rotate so that each one may have a chance at the various offices, such as the chairmanship, and so on.

Article 2, clause (7), says:

The commission shall decide on a convenient place for the establishment of the commission's headquarters.

Article 2, subsection (8), says:

Each contracting party may establish an advisory committee for its national section, to be composed of persons who shall be well informed concerning North Pacific fishery problems of common concern. Each such advisory committee shall be invited to attend all sessions of the commission except those which the commission decides to be *in camera*.

They can attend almost all the meetings, unless the commission decides that some meetings have to be *in camera*.

Article 2, clause (9), says:

The commission may hold public hearings. Each national section may also hold public hearings within its own country.

Article 2, clause (10), says:

The official language of the commission shall be Japanese and English. Proposals and data may be submitted to the commission in either language.

(At this point the discussion continued off the record.)

Article 2, clause (11), says:

Each contracting party shall determine and pay the expenses incurred by its national section. Joint expenses incurred by the commission shall be paid by the commission through contributions made by the contracting parties in the form and proportion recommended by the commission and approved by the contracting parties.

That is the same as the Northwest Atlantic convention.

Article 2, clause (12), says:

An annual budget of joint expenses shall be recommended by the commission and submitted to the contracting parties for approval.

Article 2, clause (13), says:

The commission shall authorize the disbursement of funds for the joint expenses of the commission and may employ personnel and acquire facilities necessary for the performance of its functions.

Article 3, clause (1), paragraph (a) says:

In regard to any stock of fish specified in the Annex, study for the purpose of determining annually whether such stock continues to qualify for abstention under the provisions of article 4. If the commission determines that such stock no longer meets the conditions of article 4, the commission shall recommend that it be removed from the Annex. Provided, however, that with respect to the stocks of fish originally specified in the Annex, no determination or recommendation as to whether such stock continues to qualify for abstention shall be made for 5 years after the entry into force of this convention.

Article 3, clause (1), paragraph (b) says:

To permit later additions to the Annex, study, on request of a contracting party, any stock of fish of the convention area, the greater part of which is harvested by one or more of the contracting parties, for the purpose of determining whether such stock qualifies from abstention under the provisions of Article 4. If the commission decides that the particular stock fulfils the conditions of article 4 it shall recommend, (1) that such stock be added to the Annex, (2) that the appropriate party or parties abstain from fishing such stock and (3) that the party or parties participating in the fishing of such stock continue to carry out necessary conservation measures.

Article 3, clause (1), paragraph (c) says:

In regard to any stock of fish in the convention area: (i) study, on request of any contracting party concerned, any stock of fish which is under substantial exploitation by two or more of the contracting parties, and which is not covered by a conservation agreement between such parties existing at the time of the conclusion of this convention, for the purpose of determining need for joint conservation measures.

Then, with regard to the next item: this gives the commission the power to recommend penalties for violation of the convention.

Then we have the usual statistical clause, to which you have made reference, and this article also provides for the making of studies and an annual report to the commission.

Article 3, paragraph 2 provides the commission with the power of review of all the operations under the treaty.

Article 3, paragraph 3 instructs the commission, in so far as feasible, to utilize the technical and scientific services of, and information from, official agencies of the contracting parties; that is, so far as possible our own Research Board will be used. We are endeavouring to set up not a new international body, but a body that will use the existing facilities of the various countries. Incidentally, without using any of this treaty, we are doing this very thing at the moment under clause 3.

Article 4; I suppose I do not need to go over again.

Article 5 refers to the annexes, and brings the Annex under the treaty; that, also, I think is perfectly clear and has already been dealt with.

Article 6 refers to the case of a country which is not a member or a party to this treaty whose nationals have been found fishing in the convention area, and the operation of whose vessels might adversely affect the work of the commission. The article reads: "In the event that it shall come to the attention of any of the contracting parties that the nationals or fishing vessels of any country which is not a party to this convention appear to affect adversely the operations of the commission or the carrying out of the objectives of this convention, such a party shall call the matter to the attention of the other contracting parties. All the contracting parties agree upon the request of such party to confer upon the steps to be taken towards obviating such adverse effects or relieving any contracting party from such adverse effects."

Article 7, refers simply to amendments to the Annex.

Article 8, refers to records of operations.

Article 9, fixes the provisions whereby each party agrees to compel their nationals to refrain from fishing certain species.

Paragraph 2 of that article 9 gives the powers to enact and enforce necessary laws and regulations and provides proper penalties for violations thereof, and provides for the reporting to the commission of any action taken by each party with regard thereto.

Article 10 makes provision for carrying out the terms of the convention. The first clause agrees to boarding vessels in this area, particularly Japanese vessels which are fishing in this area. This is the clause which allows you to board and inspect their equipment, log book and other articles and to question persons. This is the same type of boarding and police action as it used in the other treaties.

Article 10 (2) covers reports which the various contracting parties have to make to the commission on the action they have taken and on the penalties they have enforced. Section 3 of this article requires the three parties to meet at the end of six years to review the enforcement of the provision in this article and to see if further improvements may be necessary for carrying out its provisions, expanding as may be necessary the powers this clause is intended to provide. At the end of that period the whole matter of enforcement may be reviewed.

Article 11 refers to the exchange of instruments of ratification.

The Annex, paragraph 1, covers the species which Japan agrees to abstain from fishing in certain areas, Canada and the United States agree to continue to carry out the necessary conservation measures on these species.

Paragraph 2 of the Annex refers to what I showed you on the map in regard to Behring Sea stocks where Japan and Canada agreed to abstain from fishing salmon.

The protocol at the end makes provision for the commission investigation of the provisional line drawn in the Behring Sea.

Thank you, gentlemen.

*By Mr. Applewhaite:*

Q. Mr. Chairman, if I might be permitted to do so I have one or two questions I would like to ask and I would like to have the answers on the record the same day as this statement. But before I do so, I am quite confident I am expressing the thoughts of every member of this committee if I just say that I am sure that we have all appreciated the very full and very interesting outline of this document which the deputy minister has given us—

Hon. MEMBERS: Hear, hear.

*By Mr. Applewhaite:*

I want to ask three questions, sir, which I hope you will feel come within our terms of reference; namely, the subject matter of this treaty, because I think it may be of importance later; but I wonder if the deputy minister could tell us in general figures what proportion of the Pacific coast fish catch is exported; would you have an idea as to that?—A. You mean, exported out of Canada to other countries?

Q. Yes, roughly; how much is marketed elsewhere than in Canada, or consumed.—A. I think it would take in, considering the consumption of fresh and frozen fish, canned fish, meal and oil, probably about 75 per cent.

Q. About 75 per cent?—A. About 75 per cent.

Q. Would you be able to say what country is the largest buyer?—A. I suppose the United States would be the largest.

Q. And would you have any idea what proportion of that 75 per cent the United States takes?—A. I think, Mr. Chairman, that we are going through a very rapid transition in the basic part of the British Columbia industry, canned salmon. For various reasons the international market is changing its direction considerably at this point of time.

Q. Yes. I think perhaps that is not a fair question at the moment.—A. Up to two thirds of the total export goes to the United States. I do not think that would be far wrong.

Q. That is fine for my purpose. Coming to the treaty. I think you did mention it, but I wonder if you could, please, explain to the committee again if there is a situation where all three countries are concerned, what likelihood there is of Canada being outvoted on an issue by the United States and Japan?—A. On matters with which we all deal?

Q. Yes.—A. I think that the likelihood would be very slight. There is much unity of purpose between Canada and the United States on the Pacific coast; so it is likely that there would be very few occasions on which we would differ. If such an occasion did arise the requirement, of course, is for a unanimous vote of all three parties before any formal decisions can be made, and if we were outvoted and stayed out, the vote would be non-operative.

Q. That is the point I wanted to make.—A. Yes.

Q. Now, also, would you make it clear whether this commission which we are proposing to set up would have the right to make orders which are operative or whether its powers are limited to making recommendations to the governments represented?—A. It has powers only to make recommendations to the government concerned. It cannot make regulations that are to be enforced on the nationals of the three countries; it only recommends to the three governments what would have to be approved before it became operative against all three nations.

Q. Now, would you care to express an opinion as to the likelihood from the economic angle of Japanese vessels coming into the waters of our coast and fishing species other than the three named in the convention and taking that back to Japan?—A. It is not a very likely eventuality, sir. It is a long haul over here to our coast, especially for a large factory ship, and it probably could make much more lucrative expeditions nearer home.

Q. Then, the other one; what would be the possibility of Japanese vessels coming over to this side fishing those species and then immediately selling their catch either in Canada or the United States without having to take it back home?—A. There is no reference to that in the treaty, Mr. Chairman.

Q. I was wondering whether it was a practical measure, whether it was economically feasible to do that.—A. I think in most of those cases that kind of question is essentially a tariff question. You probably noticed what happened a few weeks ago in the United States where certain kinds of fish were brought in from Japan; action was taken very quickly by the tariff commission. So far as Canada is concerned it is impossible, such foreign vessels being excluded from our ports by the Customs and Fisheries Protection Act.

Q. That is the answer to the question in so far as Canada is concerned?—A. Yes.

Q. Just one other question I wanted to ask, perhaps it should be deferred as it is about all the criticism we have heard against the treaty, but I wonder if you would care to comment on it, and it is this: that Canada by this treaty has sold out to the United States imperialists or the U.S. financial interests, the interests of the fisheries on the Pacific coast. Would you care to comment on that?—A. I would prefer to give a little thought to that one, Mr. Chairman, there are some obvious political angles involved.

Q. I am not pressing for an answer right now.

MR. STUART: Mr. Chairman, could I have one word before we close? It is not a question, it is just this; that we have listened with great interest, I think, to the statement which has been made to us by Mr. Bates. It has been very educational and I think very helpful, although it does not to a great extent apply to the Atlantic coast, which I represent. But I would like to make this suggestion before we adjourn, and that is as to whether or not copies of that statement might be made available to the members of this committee, additional copies;

because I know that in my own riding many people would be very interested in reading that statement; and I would move that additional copies of the statement be made and that they be made available to members of the committee.

The CHAIRMAN: I think that is a good suggestion, Mr. Stuart, but provision has already been made to print up to 1,000 copies in English.

On your behalf, gentlemen, I would like to extend to Mr. Bates the thanks of the committee, as already mentioned by Mr. Applewhaite and Mr. Stuart, for the thoughtful consideration and most interesting statement given to us today by the deputy minister.

It occurred to me that possibly the members would like to have another meeting this week at which time further questions could be put to Mr. Bates.

Mr. STUART: Yes.

The CHAIRMAN: I understand that Mr. Bates will be available any day this week, and if it is agreeable to the committee I would suggest that we meet again on Thursday at 11 o'clock in order that that might be done.

In the meantime I would like to say that we have with us Mr. C. G. O'Brien, manager of the Fisheries Council of Canada in Ottawa, and he would like to address the committee for a few moments. I understand he represents organizations from Prince Rupert to Newfoundland. If it is satisfactory I would like to ask Mr. O'Brien to address the committee.

Mr. GILLIS: Might I ask Mr. Bates one question before we hear Mr. O'Brien? What we are setting up is not an enforcement commission, it has no power to change any process laid down by this convention. As I listened I got the impression that this commission was the body that was going to make decisions or make any changes in the regulations, but from what we have heard today it would appear that it is merely a commission to police the regulations, not a committee or commission of enforcement?

The WITNESS: That is right, sir. The principles are set up there and they are all inclusive; and it is the commission's job to consider the problems that arise and to see how the principles apply.

The CHAIRMAN: Mr. O'Brien:

**Mr. C. G. O'Brien, Manager, Fisheries Council of Canada, Ottawa, called:**

The WITNESS: Mr. Chairman and gentlemen, I do appreciate this opportunity of reading you this brief statement. I can be through by 1 o'clock. The Fisheries Council of Canada is a national association having a membership of 15 organizations. I have the names of the organizations here which I would be glad to leave with the committee but I will not take the time to read them now. They are:

Prince Rupert Wholesale Fish Dealers Association, Prince Rupert, B.C.  
Fisheries Association of B.C., Vancouver, B.C.

Vancouver Wholesale Fish Dealers Association, Vancouver, B.C.

Prairie Fisheries Federation, Winnipeg, Man.

Ontario Wholesale Fish Merchants' Association, Toronto, Ont.

Ontario Federation of Commercial Fishermen, Port Dover, Ont.

Montreal Fish Merchants Association, Montreal, Que.

Quebec & Northern New Brunswick Fish Producers & Exporters Association, Quebec, P.Q.

Quebec United Fishermen, Montreal, Que.

New Brunswick Fish Packers Association, Moncton, N.B.

Canadian Atlantic Salt Fish Exporters Association, Halifax, N.S.

Fish Packers' Association of the Maritime Provinces, Halifax, N.S.

Atlantic Fisheries By-Products Association, Toronto, Ont.  
Prince Edward Island Fisheries Federation, Charlottetown, P.E.I.  
Newfoundland Fish Trades Association, St. John's, Newfoundland.

I may say on their behalf, Mr. Chairman, that we are interested in the improvement of fisheries throughout Canada. It is a matter of national interest and we are in favour of anything which is to the advantage of the national interest. As Mr. Bates pointed out in his talk this morning new ground has been broken in the framing of this treaty, a new treaty is involved. I may say that the treaty has been the cause of some concern, but we are now of the opinion that the type of that agreement will work out to the advantage of all concerned. I have been asked to submit to your committee a resolution which was adopted at the seventh annual meeting of the Fisheries Council of Canada, held on April 30, 1952, at Vancouver, B.C. The resolution reads as follows:

Whereas at the 1951 annual meeting of the Fisheries Council of Canada a resolution was adopted requesting the government of Canada, concurrent with Japanese peace treaty negotiations, to enter into a convention which would provide adequate protection to Canada's west coast fishery, and

Whereas in the intervening period, such convention has been completed and now requires only the ratification of the Canadian government, and,

Whereas the particular instrument of convention is known as the Tripartite Agreement of the North Pacific, including Canada, the United States and Japan,

Therefore be it resolved. That the Fisheries Council of Canada endorses the content of the said Tripartite Agreement without qualification and recommends its ratification by parliament.

Thank you, gentlemen.

The CHAIRMAN: Thank you very much, Mr. O'Brien, for the resolution you have just read; we are very pleased to have it.

(Discussion as to procedure followed.)

The committee adjourned.

## EVIDENCE

MAY 8, 1952.

11.00 a.m.

The CHAIRMAN: The meeting will please come to order, we have a quorum. I wish to thank you for your prompt attendance here this morning, gentlemen. I know it is quite a task when so many other committees are meeting these days to have a full committee meeting and hope we will be able to maintain our quorum and finish the questioning this morning of Mr. Bates who is here with us and then we will adjourn until May 27.

I would like to notify the members that letters have been sent to the interested organizations wishing to make representations and if the committee is desirous, copies of the letters and the list of organizations to whom the letters were sent will be placed in members' mail boxes today.

Mr. GIBSON: Could it be incorporated in the record of the committee, Mr. Chairman? I wonder if that would probably give us a better record.

The CHAIRMAN: Well, perhaps you would give us that in the form of a motion.

Mr. GIBSON: I move that the letter sent by the clerk under date of May 7, 1952, including the list of organizations to whom the letter was addressed be incorporated in this evidence.

Carried.

OTTAWA, May 7, 1952.

Gentlemen:

The Standing Committee on Marine and Fisheries has instructed me to inform you that it is prepared to receive written briefs and to hear oral representations from organizations interested in the proposed Tripartite Fisheries Agreement between Canada, Japan and the United States of America.

In order to permit your organization to prepare representations and, if desirable, to make arrangements for your representative to come here, the Committee intends to adjourn until Tuesday, May 27, 1952. On that date, the Committee plans to resume its deliberations and to commence consideration of written briefs and oral representations. It was felt by the Committee that all representatives be heard on that day if possible and, in any event, within two or three days thereafter.

If it is the intention of your organization to submit a written brief to the Committee, it would very much facilitate the progress of the Committee's work should you be able to forward 50 copies as soon as possible before May 27. Whether or not your organization plans to submit a written brief, please indicate in a reply before May 27 who your representative or representatives will be, if any.

Expenses incurred as a result of these representations must be borne by your organization.

Your organization has been placed on the Committee's mailing list for a copy of its Minutes of Proceedings and Evidence which will be sent to you as soon as received from the Queen's Printer.

Yours very truly,

A. Small,  
*Clerk of the Committee.*

LIST OF ORGANIZATIONS TO WHOM LETTERS WERE SENT RE  
REPRESENTATIONS TO THE STANDING COMMITTEE ON MARINE  
AND FISHERIES CONCERNING THE PROPOSED TRIPARTITE  
FISHERIES AGREEMENT

1. United Fishermen & Allied Workers' Union,  
138 East Cordova Street,  
Vancouver, B.C.
2. Fishermen's Co-operative Association,  
2195 Commissioner Street,  
Vancouver, B.C.
3. Deep Sea Fishermen's Union No. 80 of British Columbia,  
Box 249,  
Prince Rupert, B.C.
4. Canadian Fishing Vessel Owners' Association,  
c/o Nelson Brothers Limited,  
325 Howe Street,  
Vancouver, B.C.
5. Fisheries Association of British Columbia,  
119 West Pender Street,  
Vancouver, B.C.
6. Vancouver Wholesale Fish Dealers' Association,  
c/o Edmunds and Walker, Limited,  
Foot of Campbell Avenue,  
Vancouver, B.C.
7. Prince Rupert Wholesale Fish Dealers' Association,  
Box 9,  
Prince Rupert, B.C.
8. Prince Rupert Fishermen's Co-operative Association,  
Prince Rupert, B.C.
9. Native Brotherhood of British Columbia,  
193 East Hastings Street,  
Vancouver, B.C.
10. Fisheries Council of Canada,  
46 Elgin Street,  
Ottawa, Ont.

Mr. PEARKES: I move the number of copies of the minutes of this meeting be increased from 1,000 to 2,000.

The CHAIRMAN: Of this committee?

Mr. PEARKES: Yes, in English. And I also move that 500 be printed in French. I do not think you should eliminate the French.

The CHAIRMAN: That is of the evidence of the committee at this particular meeting?

Mr. PEARKES: No, the evidence given before this committee.

Mr. GIBSON: Is 500 not too much? Four to one, I think, is a little better proportion. Couldn't we have 200?

Mr. MOTT: We already have authority to print 250 in French.

Mr. APPLEWHITE: I think all the interest will be on the western side.

Mr. GILLIS: I do not agree with that. It is a parochial attitude. I think Mr. Bates in this convention is laying the future of the fishing industry from coast to coast, and I think that this information would perhaps be more valuable to the Atlantic end of the industry than it is to British Columbia. You are actually doing something, you are actually putting the mechanics on paper so that people can look at it and see what it is. This will be extended; there is no doubt about that. I am just as much interested as Mr. Applewhaite is

Mr. PEARKES: There is one thing about this present agreement—it will be a pattern for future agreements.

The CHAIRMAN: Is the Committee ready for the question?

Mr. APPLEWHAITE: The question then is 1,000 and 250 additional?

Mr. PEARKES: Yes, making a total of 2,000 in English and 500 in French.

The CHAIRMAN: That is an additional 250 in French?

Mr. PEARKES: Yes.

Carried.

The CHAIRMAN: Is there any further discussion before we call Mr. Bates, Deputy Minister, Department of Fisheries, for questioning?

We were glad to have the very full and explanatory statement given to the committee on Thursday morning by Mr. Bates. I notice some of the members are here now who were not at that former committee meeting. I notice Mr. Herridge, who was appointed in place of Mr. MacInnis. We are very sorry that his health prevents him from attending this committee. Mr. Bates is now here, gentlemen, and will receive your questions.

**Mr. Stewart Bates, Deputy Minister, Department of Fisheries, called:**

Mr. PEARKES: Mr. Chairman, may I make one or two observations and ask a few questions? Before doing so I would like to express my appreciation and admiration for the way in which the deputy minister presented the background of these agreements and stressed the importance of them. I do so heartily concur in expressing the opinion that this will be a pattern for future agreements and it is for that reason I feel that we should have the fullest possible investigation into this agreement, not in the form of harping criticism or anything like that—because I do not intend to enter into that field—but a question was asked by a member at our first meeting as to what were the objections to this treaty. I think we should have an examination and presentation of the viewpoint which is taken by certain groups who do not quite see eye to eye with the agreement as drawn up, and whose objections are raised from fear: fear in the first place that their livelihood will be interfered with and fear that there may become over-fishing of certain species on the Pacific coast; fear that new inventions will be introduced which will alter the nature of the fishing as practised in the past years, to which Mr. Bates referred; fear that there is not adequate protection in this treaty to provide for the future.

Now, those are the fears and it is upon those fears that objections have been raised. If we present those fears here no doubt they can be examined and further opportunity will be given later on for examination and presentation when perhaps some of the unions send their representatives here.

Regarding the fear of over-fishing, I would like to say this: There is a fear that all the effort which has been put into conservation by the government of Canada, by the industry and with the co-operation of the fishermen, may be lost because while Canada has been concentrating on conservation,

it is known that the Japanese have, for obvious reasons, been concentrating on the method of locating fish and of catching fish as opposed to conservation, and I am informed—I think on thoroughly reliable authority—that the processes of locating fish and of catching fish in practice by the Japanese are, or certainly have been until very recently, ahead of Canadian methods in practice.

In support of that, one hears the common statement that the Japanese are “good fishermen”. Actually, they are good fishermen because they have concentrated on methods of locating and catching fish. Mr. Bates in his presentation the other day indicated that there were many new methods now of catching fish and it may be that Canada is catching up, but in the past the situation I have just described existed.

There was common rumour on the Pacific coast before the war that the Japanese knew more about our waters than the Canadian fishermen did, or than Canada did, and it was rumoured that Japanese naval officers were exploring our waters for offensive purposes. I think that the evidence which has been produced more recently has indicated that they were exploring the oceanographic conditions of our coast for the purpose of locating and catching fish more than for military purposes.

Regarding new equipment, reference was made—and I won't touch on that—to types of fishing gear, but there are new types of vessels, the freezer vessel which has been widely advertised in the American fishing journals. This new type of freezer vessel contains a refrigeration system which by a brine solution will enable salmon to be kept in a state of freshness when caught even in remote parts until they can be brought down to the canneries. These ships have a refrigeration plant which will enable them to take some 700 to 800 tons of salmon and they are serviced by a small fleet of gill-netters. I understand that there are some ten such vessels actually in operation. A complete description was given of these vessels in the July issue of the *Pacific Fisherman*, which is a monthly magazine published in the United States, if anybody is interested in seeing types.

Then, of course, there are the large deep sea otter trawlers of the British type, which also have refrigeration, carry filleting crews and reduction plants on board, and it is that type of new vessel for which there are fears expressed. I think I am correct in saying—and I would like to ask the deputy minister a question—that very few, if any, Japanese vessels actually fished off the British Columbia coast in pre-war days? I know there were many Japanese fishermen sailing in Canadian registered boats but I am under the impression—although it is contrary to general opinion—that there were very few Japanese vessels, vessels of Japanese registration, coming across the Pacific ocean which fished off the Canadian coast.

*By Mr. Pearkes:*

Q. I wonder if that could be answered now?—A. I think the hon. member for Nanaimo is correct in that. Before the war we had no evidence of Japanese registered vessels fishing anywhere near the British Columbia coast.

*By Mr. Applewhaite:*

Q. Not at all?—A. Not at all.

Mr. PEARKES: Because of that there is the feeling that now the Japanese with this newer type of vessel will be able to come over with Japanese vessels and perhaps take the catch of fish—I am not talking of any particular species—the catch of fish to markets much further afield, and I think it should be recognized now that this agreement permits Japanese vessels to come into our waters—an entirely new condition and one which is not generally known.

There has always been talk of Japanese fishermen on the Pacific coast but I think comparatively few people realize that those were Japanese sailing in Canadian registered vessels.

So, in this treaty, there does not appear to be any provision which would stop what could be termed a "floating cannery" coming from Japan and interfering with our fish.

Now, to deal with the various articles and to perhaps ask questions on each article, if I may, article No. 1—

Mr. MACNAUGHT: May I interrupt a moment? You have reached the point where you are going to ask questions?

Mr. PEARKE: Yes.

Mr. MACNAUGHT: I wonder if you would permit an interruption for one moment?

Mr. PEARKE: Yes, certainly.

Mr. MACNAUGHT: At the close of our last meeting, Mr. Applewhaite asked a question which Mr. Bates at that time said he would prefer to answer after studying it for a while. I believe Mr. Bates is now prepared to answer that question. I believe if he is prepared to answer it, it should go on the record as near the original question as possible if you will permit Mr. Bates to do so?

Mr. PEARKE: Yes, certainly.

The WITNESS: We do not have, Mr. Chairman, the precise terms of Mr. Applewhaite's question raised late at the last session, do we?

Towards the close of the last meeting of the committee Mr. Applewhaite raised the following question:

"I wonder if you would care to comment on it, and it is this: That Canada by this treaty has sold out to the United States imperialists or the financial interests . . ." Would you care to comment on that?

I think, Mr. Chairman, had I been clearer on the question, I should have commented right away. So far as we are concerned the answer to that is emphatically "no". There is nothing in this convention that suggests any kind of sell-out of Canadian interests to the United States or to anyone else.

Historically, the United States have fished off the British Columbia coast in the international waters. There is nothing in this treaty that would stop them from doing so. There is nothing in this treaty that adds to their rights to fish in these territorial waters. On our side, however, the treaty does yield a major concession. The treaty is set up to limit or to restrain some of these international rights that exist, and in that proviso to the principles which I mentioned the other day, there is the clause stating that from the Gulf of Alaska southwards Canada cannot be asked to abstain from any fishing, however it is developed in the future, however it is conserved or utilized by the United States. In other words, that clause gives us, from the Gulf of Alaska southwards, the equivalent of the historical rights of fishing which we did not have. Our fishermen have not fished the greater part of that area, but that clause protects the area for them as if they had historical rights there. The United States gave us a concession in that principle and it is a big concession.

Our coastline along which the Americans fish is some 600 miles long. They have given us the same concession from Alaska to the Mexican border, an area perhaps four times or five times larger in which Canadian fishermen in the future cannot be asked to abstain from fishing. The Japanese can be asked and are being asked. Any fourth or fifth power may be asked, but not the Canadians.

With that type of concession in the treaty, from a Canadian point of view, it is difficult to see why anyone would talk of a sell-out of Canadian interests. Also the other question, namely, the limit on territorial waters: There is no

sell-out of Canadian interests there, for the document from the beginning says that it leaves all these questions of territorial waters unaffected and untouched.

This particular convention was not the place to discuss questions of territoriality. In the last resort that is probably a matter between Canada and the United States, primarily a matter in which Japan might not be interested, but there is nothing in this document to restrain discussions between us and the United States on territorial waters in the future. The question is simply left untouched. So, we have given nothing away in the matter of territorial waters. According to that, it is difficult to see why this question would have been asked, but being asked the answer I think is simple and straightforward.

*By Mr. Pearkes:*

Q. Dealing with article No. 1, which defines the convention area, may I ask whether the Hecate, strait Queen Charlotte Sound, Dixon Entrance and the strait of Juan de Fuca will be considered now as the high seas; whether vessels, both American and Japanese, will be eligible to fish in these waters. The United States vessels, of course, have established their historical right to fish in the Hecate strait. I do not suppose there is any question about that, but will Japanese vessels now be able to come into the Hecate strait and fish for those species which they are entitled to fish for?—A. The question of Hecate strait that has been raised by the hon. member is one of the undetermined questions as between Canada and the United States. Canada claimed territoriality in these waters over fifty years ago, but took no steps then to enforce that claim against U.S. fishing vessels. Article No. 1 makes it plain that this document does nothing to affect territoriality and it makes it plain that the treaty does nothing to affect our future claims to territorial waters.

Article No. 1, paragraph 2, refers to that. Nothing in the convention can adversely affect our claim to territorial waters—any claim we wish to make. So, in effect the convention leaves the question untouched. You have asked specifically if it permits the Japanese to fish in Hecate strait. I think that, should a Japanese vessel appear in the Hecate strait, it would probably lead to appropriate action by the Canadian government. We have already claimed the straits as territorial waters. We have permitted the United States to fish there but members on this committee from the Atlantic coast know that Canada accords the United States by treaty and understandings many rights that are accorded to the fishing vessels of no other country.

So, I take it that should the Japanese vessels attempt to fish there, we would take the necessary action and push our claim still harder. The Americans, however, have been fishing the area historically. It would probably involve us in some bilateral agreement with the Americans at that point of time.

I have the department's legal adviser here. I do not know if he wishes to implement or qualify that statement in any way.

Q. Would that view apply to Dixon Entrance, or that portion of Dixon Entrance which may be claimed as Canadian water south of the international boundary, Queen Charlotte Sound and Juan de Fuca strait?—A. I was using Hecate strait to refer generally to the same problem that exists in the Dixon Entrance.

Q. And the Queen Charlotte Sound which, of course, is a wider stretch of water?—A. Yes: No present or future claim to territorial waters is affected by this treaty.

The CHAIRMAN: Do you mind if I interject a few remarks here at this point?

Mr. PEARKES: No.

The CHAIRMAN: I think that it would be helpful, General, especially to those of us who come from the Atlantic provinces, if the Department of Fisheries could provide us with a few mimeographed maps showing the different areas, possibly coloured in red and blue, to which the treaty refers because some of us are not so much accustomed to these areas as General Pearkes, Mr. Applewhaite, Mr. Mott and the others who reside on the Pacific coast. It is for that reason I make this suggestion, and I would like to ask Mr. Bates whether or not, in the interval between now and May 27, the committee can be provided with these maps. They do not need to be very large but large enough to point out the different areas, which I think would be most helpful.

The WITNESS: Yes, that could be done, Mr. Chairman. We shall be happy to provide them.

The CHAIRMAN: One of the reasons is that I understand that, in the Bristol Bay area, the Japanese used to go out and fish there with the Americans; and at one time there was quite a controversy, wasn't there, in that area between the Americans and the Japanese. I am glad that the maps will be provided by the Department of Fisheries.

*By Mr. Pearkes:*

Q. No reservations were made in the treaty, were there, in the way of barring the Japanese to Hecate strait waters in the same way as they were excluded from the Bristol Bay waters by the United States?—A. Well, the situation is exactly the same. The Japanese are free to fish in Bristol Bay for any species except salmon. They are sending vessels into Bristol Bay to fish for crabs and possibly others. As to Hecate straits this is, as I said before, a question of territorial waters.

*By Mr. Gibson:*

Q. They could not fish off British Columbia for salmon, herring and halibut?—A. Yes, that is right.

*By Mr. Pearkes:*

Q. They are not excluded from Bristol Bay?—A. No, except for those species placed in the annex of the treaty.

Q. Then article 2, section 3, does that prevent Canada from designating a species in future as being under scientific protection without the unanimous vote of the three parties concerned?—A. Well, sir, in order to have any species brought within the framework, it has to meet three conditions—one, under scientific study; two, under regulation; and, three, under maximum utilization.

Q. Supposing it meets those three conditions, then does there have to be a unanimous vote to include that species in the exemption?—A. That is right, there would have to be a unanimous vote.

Q. You mean before abstention could be asked?—A. It would have to be determined whether the particular stock met the three conditions and the commission is the judicial body that determines whether or not that is so.

Q. Article 3 prescribes five years' abstention. Must any extension granted be unanimous? If there is to be an extension of the abstention and if at the end of five years, we will say, Canada wanted to extend the abstention to prevent Japan from fishing those three species which they are now prohibited from fishing for a further period. Would that have to be a unanimous agreement?—A. No, sir. I think it is the other way round. We are guaranteed the protection of these three species for five years. On the sixth, seventh and subsequent years that guarantee is automatically extended unless it is proven that the conditions no longer apply; in other words, if you had a unanimous vote of the commission that we were no longer maintaining

scientific study, full utilization and so forth, then the items would be taken out of the abstention, but automatically they will not unless it is proven that they no longer fulfil the provisions and to do that would require a unanimous vote.

Q. The question was asked by Mr. Applewhaite, I think, regarding Canada having the right to veto or the right to vote against the other powers if they claim that there was not a continuation of this scientific investigation, we will say, or the restriction placed. Well then, if the Japanese wanted to press their claim, I presume that she could annul the treaty with one year's notice?—A. After ten years she could annul with one year's notice.

Q. So the protection then, so far as our salmon, halibut and herring fisheries are concerned is for a period of eleven years as a maximum?—A. That is right, sir.

Q. Unless it is renewed?—A. That is right, sir.

Q. And there again there is some fear that this is not a very long-term agreement. That is why I am asking that question.—A. Of course, on that question, sir, the treaty itself continues indefinitely after the end of the ten-year period unless a country gives one year's notice. It does not automatically cease at the end of ten years; it may continue.

Q. The other types of fish, such as crab, flat-fish, various types of cod, tuna and pilchards, the Japanese can come and fish those right up to the three-mile limit of our territorial waters. They cannot go into our territorial waters, can they, to fish those?—A. That is correct, sir, they cannot go into our territorial waters and they always had the right to fish beyond the territorial waters. A little earlier in your remarks you said this treaty gave the Japanese the right to come to the Canadian coast. The treaty does not give them the right. They have always had the right. Other nations have the right. What this treaty does is restrain them from using that right in salmon, herring and halibut fishing, but the traditional right for fishing the other species will remain unless we can get these covered by the principles agreed to in the treaty at some time.

Q. Well, of course, those types or species of fish are increasing in importance, and there is a good deal of scientific research being carried out now in so far as the crab, pilchard and some of the other species are concerned, particularly in the biological laboratory at Departure Bay; and I was wondering why a claim had not been staked on scientific research which is being carried out by Canada at the present time because, if we wanted to exclude those species and we asked either the United States or the Japanese to refrain from fishing crab or flatfish, we should be confronted with difficulties because we have not established any claim at the present time to scientific research being carried out on those species, but it is actually being done—was any attempt made to establish a claim?—A. Yes, sir, it is true, as the hon. member says, that a good deal of scientific work has been done on other species in British Columbia. Before such other species, however, can meet the principles, there has to be some scientific research: there has also to be regulation and maximum utilization. Now, it was on these last two counts that we encountered difficulty in attempting to prove that such species met these other two conditions.

I would remind the committee also that the United States was only able to get two species into their abstention—salmon and halibut. They were not able to bring in pilchards or tuna, the fish in which there is some evidence of depletion, but as to which they were unable to bring that third principle to apply. We were able to have it apply on three species. We could not prove it for these others just mentioned. We are determined, of course, to continue our scientific work, to apply regulations if necessary—we have now, and if these other species move into maximum utilization during the time of this convention, then we would in the ordinary course bring it forward to the commission.

*By Mr. Gibson:*

Q. Did they try to establish pilchards as being utilized to the maximum?  
—A. Yes.

Q. I should have imagined they could have proved that very easily by depletion?—A. You refer to the United States?

Q. Yes.—A. Well, they were unable to indicate that they had had maximum utilization and regulation applying on pilchards over a period of years.

*By Mr. Herridge:*

Q. At this point, I would like to ask Mr. Bates a question. I know quite a bit of sports fishing but not commercial fishing. I understand that pilchards are a variety of herring biologically, is that correct?—A. I am no biologist, sir.

Q. They are distinct?—A. They are a distinct species, yes. They are more akin to the sardine family.

*By Mr. Pearkes:*

Q. Regarding the crab fishing, there are certain regulations, I believe, imposed by the United States—restrictions regarding the fishing of crab off the coasts of Washington and Oregon that do not apply to any crab fishing in Queen Charlotte Sound or off the west coast of Vancouver Island?—A. Well, our regulations on crabs are few and I doubt if they are the same as the American.

Q. I think the case is that the American draggers can come up and fish off our coast, but they are prohibited from fishing off the coasts of the states of Oregon and Washington, and there is a feeling there that perhaps some regulation might be required to prevent not only Americans but the Japanese coming and fishing our crab during certain seasons of the year. Then, there are no provisions, are there, restricting the type of equipment that anybody could use? We do prohibit the Japanese from fishing salmon, herring and halibut; but, if certain types of equipment are used to catch other species, is there not a danger that the young fry of those species will be destroyed? A Japanese vessel might be fishing for some other species and may by the nature of the equipment it is using destroy a large quantity of the young life of the species which it must abstain from fishing. What prevention against that have we?—A. We have encountered that kind of question in some of our other conventions, particularly in the case of halibut. In this particular convention the commission is, as we saw the other day, not a regulatory body. This commission cannot pass regulations. It does, however, have the power to investigate the kind of question you are raising now. It has the power to look at it and investigate it scientifically and to make recommendations to the three governments for the meeting of that kind of question; that is, it can make recommendations as to mesh size, types of gear, etc. So, within the convention there is for the first time an instrument for dealing with that kind of question should it arise on the high seas.

*By Mr. Gibson:*

Q. That in itself is a great advance, I would say?—A. Yes.

*By Mr. Pearkes:*

Q. But at the present time there are no restrictions as to any type of equipment which may be used in the catching of the species which are permitted to be caught?—A. By the Japanese?

Q. By the Japanese.—A. That is right, sir.

Q. And, of course, there are no restrictions as to the type of equipment which can be used by the Americans, are there?—A. No, and as to extra-territorial waters, there never were any such restrictions. We now have in this convention an instrument that can be used to investigate such questions and to recommend regulations should restriction be necessary.

*By Mr. Applewhaite:*

Q. Are there any such restrictions imposed on Canadian fishermen concerning the species excluded from the Act?—A. Well, they cannot dynamite them, for instance. We have mesh sizes and so on, but this applies only to territorial waters, whereas the Treaty deals entirely with extra-territorial waters.

*By Mr. Pearkes:*

Q. And you have certain areas, don't you, in which it is permitted for otter-trawlers to operate in?—A. Yes.

Q. It was that sort of thing which I was referring to and against which it does not seem to me that adequate protection is provided in the agreement—in fact you have stated that there are no limitations placed in this agreement although the matter might come up for discussion at some future time. I wonder whether perhaps, looking to the future, any agreement which might be made based on this pattern should not have some clauses in it limiting the type of equipment which might be used? Now, that is talking of the future and not talking directly on this agreement, but it is something which I feel is of very considerable concern to the fishing industry.

And then my final question, dealing with article No. 10, which is an article which deals with the way in which breaches of this convention are dealt with. A Canadian inspector may board an American or Japanese vessel and if it is found that the vessel has been breaking any part of the agreement, then that vessel is returned to the authorities of the country of origin, I presume, where the vessel is registered, to be dealt with.

Now, is that general practice in international law, that where a vessel of another country is infringing the regulations of the country it is visiting that such punishment as is required would be meted out by the country of origin?—A. Yes, sir. If any foreign vessel on either coast comes within Canadian territorial waters, then it is infringing a Canadian law and our patrol vessels will seize such foreign vessel and try them in Canadian courts.

Here in this convention however we are dealing with the high seas and you asked whether the principle of boarding and seizure we use here is the normal one. It is the same as the one we use in our salmon and halibut conventions with the United States. That is, if a patrol vessel of our country finds an American vessel on the high seas breaking the salmon and halibut regulations, it informs the American authorities and the vessel is passed over to the American authorities and the American courts for handling there and vice versa in the case of our vessels. The same principle had to be applied here so far as the high seas were concerned.

We have no rights over foreign vessels on the high seas except such rights as are given us by treaty and in this treaty we get the right from the Japanese to board their vessels on our side of the Pacific to see if they are catching those three forbidden species. And if we find them fishing them, we seize and pass them to the Japanese authorities for handling in their courts. It is the same principle as used in the salmon and halibut commissions.

Q. There is a feeling, not unnaturally, that it would hardly be a serious deterrent to a Japanese vessel fishing off our Pacific coast. We know the Japanese are fish hungry. They must get all the fish they can to eat. We also

know that Japan is very anxious to obtain American dollars and it would not be unreasonable to think that if a vessel was carrying out the general economic policy of that country in trying to get all the fish possible or trying to sell its product to the United States that the captain would be dealt with quite leniently for an infringement which we might consider far more serious. There is no international court of justice which could deal with such a situation, is there, and to which this matter could be referred?—A. That question has not hitherto been treated in that kind of way. The danger you mention may be present. There is, however, no piece of legislation, no treaty that can turn fishermen or fishing masters into saints, and if the Japanese did the things you mentioned it would be a breach of the convention.

We have to take it on faith at this stage. We ourselves have more patrol vessels on the seas than formerly. The Japanese are required to provide the commission with full information as to the penalties imposed for these infractions. The commission itself is given power to review these penalties after the treaty has been in operation for five years and to determine whether or not they are operating properly and we do not see, sir, any better way except using the commission in which we and the Americans are present as the over-all court of inquiry into the infractions.

Q. Thank you. I can understand the anxiety which has been felt. In the past Japanese fishing on the Canadian coast from Canadian boats were subject, of course, to Canadian regulations. Now we are faced with a new era in which there will be boats coming from Japan so we may anticipate fishing in our off-shore waters? May I ask how many patrol vessels the department has on the Pacific coast, and whether it is considered that the number of patrol vessels is adequate to provide the protection which is necessary at seasons when fishing is at its highest?—A. Yes, sir. Answering the former question first, you refer to the anxieties that might be present for fishermen because of Japanese fishing off our coast. There is nothing in the convention to induce the Japanese to fish more than they did in the past off our coast.

Q. Except general world conditions?—A. General world conditions are perhaps not such as to make it worth while to travel 4,000 miles for fish that you would get 2,000 miles from home. I think two factors must be borne in mind. A factory ship from Japan could probably make out better and have a more profitable expedition closer to home than off the British Columbia coast. Secondly, our fishing industry now has better protection than it had before; it is no longer possible for the Japanese to come over and fish salmon on the most profitable species; so the danger from Japanese fishing is greatly reduced from what it was before. As to the patrol situation, we have on the Pacific coast 33 ships. They are not all capable, of course, of going out on the high seas. We have three large ones that are, and a group in between—65 footers—that can certainly do patrol work on the outside of Vancouver Island and the Queen Charlottes. We have, of course, our naval vessels. Canada has more naval vessels than in the past. We have our weather ships stationed at regional observation spots on the Pacific coast. The Americans are equally interested in Japanese fishing whether it is off British Columbia or off Alaska and they have increased protection through effective means; so I think it is safe to assume that we have more means of protection than we have had before. As time passes it may be necessary of course to add to the fishery patrol fleet.

Q. One other question which arises out of that. Would an American fishery vessel or a coast guard vessel be permitted to go into Hecate Strait and examine Canadian vessels?—A. No, not under this treaty. We are talking about the high seas, and so far as the high seas go an American patrol vessel can just as well act for Canada under this treaty because the Japanese agreed that any boat fishing in areas containing salmon, halibut, or herring, must submit to inspection by an American or Canadian patrol and if they were

caught fishing halibut, herring or salmon, they can be seized and turn over for prosecution. So we have the American protective devices working with us so far as the high seas go.

*By Mr. Applewhaite:*

Q. Mr. Chairman, there are one or two questions I would like to ask. I am afraid they are rather disconnected. I would like to ask the deputy minister if, under this treaty, a floating cannery from Japan did come over to the waters of the Pacific coast, what species could they fish and can?—A. They could fish and can any species not included in the Act.

Q. What species have we left which lend themselves to canning?—A. To canning?

Q. Yes.—A. Principally crab, they may be canned. There is nothing against that. Also, a floating refrigerator ship might operate on rock cod, and ground fish of that kind.

Q. And that would be freezing?—A. That would be freezing, refrigeration.

Q. I asked at the last meeting, Mr. Chairman, what possibility was under this treaty, of Japanese vessels coming across and fishing British Columbia species which are not protected and landing their catch in Canada; in other words, not having to take them home. I think Mr. Bates said that so far as Canada was concerned, that was impossible, but, thinking it over, I don't think he told us why. I am wondering if you would enlarge on that, sir?—A. Well, under the Canadian Customs and Fisheries Act, Section 10, there are three paragraphs covering foreign fishing vessels in Canadian waters. In these cases entry is forbidden for any purpose, including the landing of fish; so that it is impossible for a Japanese floating factory to come across to our shores and after they have made their catch to bring it into a Canadian port. The only way it could be done is by Canada making a special treaty with Japan giving her that right, and this we have not done. We have made such a treaty with the United States on halibut fishing vessels.

Mr. GILLIS: That is right.

The WITNESS: Under a special treaty with the United States respecting halibut fishing vessels, we gave them that right.

Mr. APPLEWHAITE: That is a reciprocal right?

The WITNESS: Yes.

*By Mr. Gibson:*

Q. What about fish they canned which was caught and canned off the coast, Tuna for instance? Would they not have the right to land that at some port on our coast? We accept foreign Tuna.—A. Not from a factory ship. They would have to transfer it to a merchant ship, or to a Canadian ship, on the high seas, and bring it to a Canadian port, and then it would be subject to the usual customs duties.

Q. But a fishing vessel would be excluded?—A. That is right.

*By Mr. Applewhaite:*

Q. In that case it would be a foreign merchant ship entering a Canadian port, and it would have to pay duty, of course?—A. That is right.

Q. Can you give us any idea of what proportion of the crab catch of the whole North American coast is taken in extra-territorial waters?—A. I am sorry, Mr. Chairman, I will have to check the figures on that one.

Q. If it is possible I would like to have that information because it would give us an indication of the extent to which crab are subject to foreign fishing, and to what extent the catch is within territorial limits. I think perhaps the committee should have that as crab have been referred to several times.

The CHAIRMAN: That information will be prepared and given to the committee later on.

The WITNESS: You are only interested in crabs off British Columbia, not in the Behring Sea?

*By Mr. Applewhaite:*

Q. No, I am not particularly interested in that.—A. The Japanese value the large crab in the Behring Sea more than off our coast, Mr. Applewhaite. They are not likely to be interested in fishing crab off our coast because the Behring Sea is very much closer to Japan, so one must expect fishing for crabs to take place in the area adjacent to Behring Sea and to continue there for quite a while before they become tempted to go further afield for a smaller crab and fewer of them.

Q. I think, crab having been discussed, that such information as is available might be made available to the committee later on.—A. I think we can say off hand that the bulk of the crab fishing is inside Canadian territorial waters; that would be about all we could give you; other than that we might not be able to supply the figures for you.

Q. If the department has any information on that, you will prepare it for us?—A. Yes.

Q. In connection with the enforcement provisions—and I think it is fair perhaps to preface this question with one observation, and I am speaking of the treaty; if we assumed that any of the parties are going deliberately to sidetrack it and try to evade it, the treaty has no value, even the enforcement provisions; if we were to have here provision which would enable Canadian officers to seize Japanese vessels on the high seas and bring them into Canada for trial would you not at the same time have to accept that principle in reverse and make our vessels subject to seizure and to being taken to Japanese courts for trial?—A. Yes. The Japanese raised that question during the discussions. They pointed out that they would abstain from the fishing of halibut, salmon and herring. And then they said that, if we wished to board their vessels that as a corollary they should have the right of boarding Canadian fishing vessels to see if the latter were carrying out the terms of the halibut, salmon and herring regulations; so it would be reciprocal. If we wish to board their vessels on the high seas, they should have the same right to board and arrest our vessels. We, of course, had to take the attitude that Japanese boarding Canadian vessels close to our territorial waters would hardly be a propitious action especially at this particular point of time; and the final determination of article 10 was based, as I said, on considerations both ways.

Q. I just brought that question up at this time. Now, in connection with the patrol service on the Pacific coast, do you ever use planes at all?—A. Yes, we have used planes often, for several years now. We have found them very effective. We use them in co-operation with our ships and with which they have inter-communication by radio-telephone. The plane service would increase should there be an indication of an increase in Japanese fishing anywhere near our shores. Both the United States and ourselves would probably extend that type of overhead patrol.

*By Mr. Mott:*

Q. Mr. Bates, I have one question I wanted to ask. In your explanation at our last meeting you mentioned that this agreement was really based on working on conservation between United States and Canada; that it was on that that you could make an agreement such as you made. Would it have been possible—and this question has come up out on the Pacific coast—would it have been possible at all to make a bi-partite agreement with Japan leaving the United States out of the question?—A. That was impossible. The chief

reason was that Japan would not agree to such a proposal. The kind of bilateral treaty we would like to have made would have been one in which each agreed to stay off the other's shores. The Japanese simply would not subscribe to that kind of treaty, arguing that if they made that kind of a treaty with Canada they would have to make the same kind of a treaty with Russia, China, Malaya, Australia, the Mariannas, the Philippines, and so on. They said they could not subscribe to that principle, otherwise they would be tied in throughout the whole of the Pacific basin with no fisheries left to them. That was the first point. The second point was this, that the United States and Japan intended to make a fisheries agreement anyway, and they were going to make it along the particular lines of this agreement. Now, had they gone ahead and done so and had we stayed out, we would have lost the opportunity to get the benefit of the protective proviso provided in article IV of this agreement. To make a separate treaty with Japan at all, it would have had to be along the lines of this one. As a matter of fact, if it had been possible to make a separate treaty, we would have lost out on the chance to get that portion included in there which gives to Canada, as a young fishing country, the equivalent of historical fishing rights from Alaska south. So we entered into this treaty to get that concession, but at the same time we tried to frame the agreement in such a way that we were not making a strictly Canadian-American treaty, touching on questions like Hecate Straits or territorial waters. We framed the treaty in such a way that these questions were left for the future; but that we would get from this convention that particular protection from the Gulf of Alaska southwards.

You gentlemen will recognize what it is. We are subscribing here to a treaty in which we are asking Japan to abstain from fishing down that coast, and we will likely ask any foreign country to abstain from fishing in that area on the same principle. So we were subscribing to a treaty that had included in it one clause that withheld Canada from the operation of the restrictive provisions. We could not have got that by a straight bilateral treaty with Japan. That was the only way you could get it, and we do get it here. We also had included this other clause which left the other Canadian-American questions untouched by the treaty.

The CHAIRMAN: Are there any further questions, gentlemen? Have you anything further you would like to address to the committee, Mr. Bates?

The WITNESS: No, thank you, sir.

The committee adjourned.

## APPENDIX "A"

DRAFT INTERNATIONAL CONVENTION FOR THE HIGH SEAS  
FISHERIES OF THE NORTH PACIFIC OCEAN

CANADA — JAPAN — UNITED STATES

TOKYO, JAPAN, December, 1951

TRIPARTITE FISHERIES CONFERENCE, TOKYO

November 5 through December 13, 1951

*Resolutions and Request*1. *Representatives*

The Governments of Canada, Japan, and the United States of America, having accepted the invitation extended to them by the Government of Japan to participate in a Tripartite Fisheries Conference, appointed their respective representatives, who are listed below by countries, and by organizations, in the order of alphabetical precedence:

## Canada:

The Honourable Robert W. Mayhew, Minister of Fisheries; Chairman of Delegation.  
Mr. Stewart Bates, Deputy Minister of Fisheries; Vice Chairman.  
Mr. E. T. Applewhaite, Member of Parliament.  
Mr. Arthur R. Menzies, Canadian Diplomatic Representative, Tokyo.  
Mr. Samuel V. Ozere, Legal Adviser, Department of Fisheries.  
Dr. John L. Hart, Director, Pacific Biological Station.  
Mr. John M. Buchanan, President, British Columbia Packers, Limited.

## Japan:

The Honourable Ryutaro Nemoto, Minister of Agriculture and Forestry.  
Mr. Sadao Iguchi, Vice-Minister of Foreign Affairs.  
Mr. Iwao Fujita, Director, Fisheries Agency.  
Mr. Jun Tsuchiya, Director, European and American Affairs Bureau, Ministry of Foreign Affairs.  
Mr. Masao Sogawa, Director, Production Division, Fisheries Agency.  
Mr. Tsunejiro Hiratsuka, President, Japan Deep-Sea Fisheries Council; Adviser.  
Mr. Tahei Iiyama, Vice-President, Japan Deep-Sea Fisheries Council; Adviser.  
Mr. Hachiya Obama, Vice-President, Japan Deep-Sea Fisheries Council; Adviser.  
Mr. Kenkichi Nakabe, Vice-President, Taiyo Fisheries Co., Ltd.; Adviser.  
Mr. Kyuhei Suzuki, President, Nippon Suisan Co., Ltd.; Adviser.  
Mr. Toshimaru Yokoyama, President, Federation of Japan Tuna Fishermen's Co-operative Associations; Adviser.  
Mr. Shozaburo Yokota, President, National Association of Fishing Villages; Adviser.

## United States of America:

Mr. William C. Herrington, Special Assistant to the Under Secretary of State, Department of State; Chairman of the Delegation.  
Mr. Milton C. James, Assistant Director, Fish and Wildlife Service, Department of the Interior; United States Commissioner, International Fisheries Commission, Inter-American Tropical Tuna Commission, International Commission for the Scientific Investigation of Tuna; Alternate Delegate.

- Mr. Warren F. Looney, Foreign Affairs Officer, Office of the Special Assistant to the Under Secretary of State, Department of State; Member.
- Mr. Edward W. Allen, Allen, Hilen, Froude, DeGarmo and Leedy, Seattle; United States Commissioner and Chairman, International Fisheries Commission; Vice-Chairman, Pacific Fisheries Conference; Adviser.
- Mr. Milton E. Brooding, California Packing Corporation, San Francisco; Chairman of Executive Committee, Pacific Fisheries Conference; Adviser.
- Mr. Richard S. Croker, Chief, Bureau of Marine Fisheries, Department of Fish and Game, State of California; Chairman, Pacific Marine Fisheries Commission; Adviser.
- Mr. Donald P. Loker, President, High Seas Tuna Packing Company, San Diego; Member, Executive Committee, Pacific Fisheries Conference; Adviser.
- Mr. Harold E. Lokken, Manager, Fishing Vessel Owners Association, Seattle; Member, Executive Committee, Pacific Fisheries Conference; Adviser.

## 2. *Proceedings*

A. The Chairman requested the confirmation by the representative of each Government of the following facts:

1. The Tripartite Fisheries Conference between Canada, Japan, and the United States of America was held at Tokyo, Japan, from November 5, 1951 to December 13, 1951.
2. The Japanese Government was the official sponsoring government to this Conference.
3. Mr. Ryutaro Nemoto, Minister of Agriculture and Forestry of Japan, was elected Honorary Chairman of the Conference and Mr. Sadao Iguchi, Vice-Minister for Foreign Affairs, was elected Permanent Chairman.
4. The sessions of the Conference were held at the Ministry of Foreign Affairs at Tokyo, Japan.

B. The Chairman stated that the Japanese government as the sponsor expresses its gratitude to the delegations of Canada and the United States of America for the understanding and co-operation shown in bringing the conference to a successful culmination.

## 3. *Resolutions*

A. The Conference adopted the following resolution on motion of the representatives of Canada and the United States of America:

### *Resolution I*

The Conference resolves:

1. To express its gratitude to the Minister for Foreign Affairs of Japan, His Excellency, Mr. Shigeru Yoshida, for his initiative in convening the present conference and for its preparation;
2. To express to its Honorary Chairman, Mr. Ryutaro Nemoto, Minister of Agriculture and Forestry, and its Permanent Chairman, Mr. Sadao Iguchi, Vice-Minister for Foreign Affairs, its deep appreciation for the excellent manner in which they have guided the Conference and brought it to a successful conclusion;

3. To express to Mr. Toshiro Shimanouchi of the Ministry of Foreign Affairs and other members of the Secretariat its appreciation for their able and untiring services and diligent efforts in contributing to the fruition of the purposes and objectives of the Conference.

B. The Conference adopted the following resolution:

*Resolution II*

The representatives of the Governments of Canada, Japan and the United States of America here assembled, recognizing the mutual interest of their respective Governments in the development and proper utilization of stocks of fish in the north Pacific ocean, and believing that this end can best be attained by international collaboration, do hereby recommend to their respective governments that a convention conforming to the draft which has here been agreed to by their representatives and is appended to these resolutions be concluded between the three countries as speedily as possible.

C. The Conference adopted the following resolution on motion of the representative of the United States of America:

*Resolution III*

Believing that it is necessary to follow principles which provide a sound basis for the orderly development and exploitation of high seas fisheries in the interest of maximum sustained yields the Conference recommends that, in negotiating with other governments in respect to problems similar to those covered by this convention, the contracting parties shall give full consideration to the spirit and intent of this convention.

4. *Request*

The Conference agreed to the following request in accordance with the proposal of the representatives of Canada:

The Conference requests:

That as soon as may be convenient after entry into force of the International Convention for the High Seas Fisheries of the North Pacific Ocean the Government of the United States of America initiate steps for the holding of the first meeting of the International North Pacific Fisheries Commission without prejudice, however, to the determination of the ultimate location of the seat of the Commission.

In Witness Whereof, the following representatives sign the present Resolutions.

Done in triplicate, in the English and Japanese languages at Tokyo, on the thirteenth day of December, nineteen hundred fifty-one.

CANADA:

JAPAN:

UNITED STATES OF AMERICA:

---

APPENDIX

Draft International Convention for the High Seas Fisheries of the North Pacific Ocean.

## DRAFT INTERNATIONAL CONVENTION FOR THE HIGH SEAS FISHERIES OF THE NORTH PACIFIC OCEAN

The Governments of Canada, the United States of America, and Japan, whose respective duly accredited representatives have subscribed hereto,

Acting as sovereign nations in the light of their rights under the principles of international law and custom to exploit the fishery resources of the high seas, and

Believing that it will best serve the common interest of mankind, as well as the interests of the Contracting Parties, to ensure the maximum sustained productivity of the fishery resources of the North Pacific Ocean, and that each of the Parties should assume an obligation, on a free and equal footing, to encourage the conservation of such resources, and

Recognizing that in view of these considerations it is highly desirable (1) to establish an International Commission, representing the three Parties hereto, to promote and co-ordinate the scientific studies necessary to ascertain the conservation measures required to secure the maximum sustained productivity of fisheries of joint interest to the Contracting Parties and to recommend such measures to such Parties and (2) that each Party carry out such conservation recommendations, and provide for necessary restraints on its own nationals and fishing vessels,

Therefore agree as follows:

### *Article I*

1. The area to which this Convention applies, hereinafter referred to as "the Convention area", shall be all waters, other than territorial waters, of the North Pacific Ocean which for the purposes hereof shall include the adjacent seas.

2. Nothing in this Convention shall be deemed to affect adversely (prejudice) the claims of any Contracting Party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries.

3. For the purposes of this Convention the term "fishing vessel" shall mean any vessel engaged in catching fish or processing or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

### *Article II*

1. In order to realize the objectives of this Convention, the Contracting Parties shall establish and maintain the International North Pacific Fisheries Commission, hereinafter referred to as "the Commission."

2. The Commission shall be composed of three national sections, each consisting of not more than four members appointed by the governments of the respective Contracting Parties.

3. Each national section shall have one vote. All resolutions, recommendations and other decisions of the Commission shall be made only by a unanimous vote of the three national sections except when under the provisions of Article III, Section 1 (c) (ii) only two participate.

4. The Commission may decide upon and amend, as occasion may require, by-laws or rules for the conduct of its meetings.

5. The Commission shall meet at least once each year and at such other times as may be requested by a majority of the national sections. The date and place of the first meeting shall be determined by agreement between the Contracting Parties.

6. At its first meeting the Commission shall select a Chairman, Vice-Chairman and Secretary from different national sections. The Chairman, Vice-Chairman and Secretary shall hold office for a period of one year. During succeeding years selection of a Chairman, Vice-Chairman and Secretary from the national sections shall be made in such a manner as will provide each Contracting Party in turn with representation in those offices.

7. The Commission shall decide on a convenient place for the establishment of the Commission's headquarters.

8. Each Contracting Party may establish an Advisory Committee for its national section, to be composed of persons who shall be well informed concerning North Pacific fishery problems of common concern. Each such Advisory Committee shall be invited to attend all sessions of the Commission except those which the Commission decides to be *in camera*.

9. The Commission may hold public hearings. Each national section may also hold public hearings within its own country.

10. The official languages of the Commission shall be Japanese and English. Proposals and data may be submitted to the Commission in either language.

11. Each Contracting Party shall determine and pay the expenses incurred by its national section. Joint expenses incurred by the Commission shall be paid by the Commission through contributions made by the Contracting Parties in the form and proportion recommended by the Commission and approved by the Contracting Parties.

12. An annual budget of joint expenses shall be recommended by the Commission and submitted to the Contracting Parties for approval.

13. The Commission shall authorize the disbursement of funds for the joint expenses of the Commission and may employ personnel and acquire facilities necessary for the performance of its functions.

### Article III

1. The Commission shall perform the following functions:

- (a) In regard to any stock of fish specified in the Annex, study for the purpose of determining annually whether such stock continues to qualify for abstention under the provisions of Article IV. If the Commission determines that such stock no longer meets the conditions of Article IV, the Commission shall recommend that it be removed from the Annex. Provided, however, that with respect to the stocks of fish originally specified in the Annex, no determination or recommendation as to whether such stock continues to qualify for abstention shall be made for five years after the entry into force of this Convention.
- (b) To permit later additions to the Annex, study, on request of a Contracting Party, any stock of fish of the Convention area, the greater part of which is harvested by one or more of the Contracting Parties, for the purpose of determining whether such stock qualifies for abstention under the provisions of Article IV. If the Commission decides that the particular stock fulfils the conditions of Article IV it shall recommend, (1) that such stock be added to the Annex, (2) that the appropriate Party or Parties abstain from fishing such stock and (3) that the Party or Parties participating in the fishing of such stock continue to carry out necessary conservation measures.

- (c) In regard to any stock of fish in the Convention area,
  - (i) Study, on request of any Contracting Party concerned, any stock of fish which is under substantial exploitation by two or more of the Contracting Parties, and which is not covered by a conservation agreement between such Parties existing at the time of the conclusion of this Convention, for the purpose of determining need for joint conservation measures;
  - (ii) Decide and recommend necessary joint conservation measures including any relaxation thereof to be taken as a result of such study. Provided, however, that only the national sections of the Contracting Parties engaged in substantial exploitation of such stock of fish may participate in such decision and recommendation. The decisions and recommendations shall be reported regularly to all the Contracting Parties, but shall apply only to the Contracting Parties the national sections of which participated in the decisions and recommendations;
  - (iii) Request the Contracting Party or Parties concerned to report regularly the conservation measures adopted from time to time with regard to the stocks of fish specified in the Annex, whether or not covered by conservation agreements between the Contracting Parties, and transmit such information to the other Contracting Party or Parties.
- (d) Consider and make recommendations to the Contracting Parties concerning the enactment of schedules of equivalent penalties for violations of this Convention.
- (e) Compile and study the records provided by the Contracting Parties pursuant to Article VIII.
- (f) Submit annually to each Contracting Party a report on the Commission's operations, investigations and findings, with appropriate recommendations, and inform each Contracting Party, whenever it is deemed advisable, on any matter relating to the objectives of this Convention.

2. The Commission may take such steps, in agreement with the Parties concerned, as will enable it to determine the extent to which the undertakings agreed to by the Parties under the provisions of Article V, Section 2 and the measures recommended by the Commission under the provisions of this Article and accepted by the Parties concerned have been effective.

3. In the performance of its functions, the Commission shall, insofar as feasible, utilize the technical and scientific services of, and information from, official agencies of the Contracting Parties and their political sub-divisions and may, when desirable and if available, utilize the services of, and information from, any public or private institution or organization or any private individual.

#### Article IV

1. In making its recommendations the Commission shall be guided by the spirit and intent of this Convention and by the considerations below mentioned.

- (a) Any conservation measures for any stock of fish decided upon under the provisions of this Convention shall be recommended for equal application to all Parties engaged in substantial exploitation of such stock.
- (b) With regard to any stock of fish which the Commission determines reasonably satisfies all the following conditions, a recommendation shall be made as provided for in Article III, Section 1, (b).

- (i) Evidence based upon scientific research indicates that more intensive exploitation of the stock will not provide a substantial increase in yield which can be sustained year after year,
- (ii) The exploitation of the stock is limited or otherwise regulated through legal measures by each Party which is substantially engaged in its exploitation, for the purpose of maintaining or increasing its maximum sustained productivity; such limitations and regulations being in accordance with conservation programs based upon scientific research, and
- (iii) The stock is the subject of extensive scientific study designed to discover whether the stock is being fully utilized and the conditions necessary for maintaining its maximum sustained productivity.

Provided, however, that no recommendation shall be made for abstention by a Contracting Party concerned with regard to: (1) any stock of fish which at any time during the twenty-five years next preceding the entry into force of this Convention has been under substantial exploitation by that Party having regard to the conditions referred to in Section 2 of this Article; (2) any stock of fish which is harvested in greater part by a country or countries not party to this Convention; (3) waters in which there is historic inter-mingling of fishing operations of the Parties concerned, inter-mingling of the stocks of fish exploited by these operations, and a long-established history of joint conservation and regulation among the Parties concerned so that there is consequent impracticability of segregating the operations and administering control. It is recognized that the conditions specified in subdivision (3) of this proviso apply to Canada and the United States of America in the waters of the Pacific Coasts of the United States of America and Canada from and including the waters of the Gulf of Alaska southward and, therefore, no recommendation shall be made for abstention by either the United States of America or Canada in such waters.

2. In any decision or recommendation allowances shall be made for the effect of strikes, wars, or exceptional economic or biological conditions which may have introduced temporary declines in or suspension of productivity, exploitation, or management of the stock of fish concerned.

#### *Article V*

1. The Annex attached hereto forms an integral part of this Convention. All references to "Convention" shall be understood as including the said Annex either in its present terms or as amended in accordance with the provisions of Article VII.

2. The Contracting Parties recognize that any stock of fish originally specified in the Annex to this Convention fulfills the conditions prescribed in Article IV and accordingly agree that the appropriate Party or Parties shall abstain from fishing such stock and the Party or Parties participating in the fishing of such stock shall continue to carry out necessary conservation measures.

#### *Article VI*

In the event that it shall come to the attention of any of the Contracting Parties that the nationals or fishing vessels of any country which is not a Party to this Convention appear to affect adversely the operations of the Commission or the carrying out of the objectives of this Convention, such Party shall call the matter to the attention of other Contracting Parties. All the Contracting Parties agree upon the request of such Party to confer upon the steps to be taken towards obviating such adverse effects or relieving any Contracting Party from such adverse effects.

*Article VII*

1. The Annex to this Convention shall be considered amended from the date upon which the Commission receives notification from all the Contracting Parties of acceptance of a recommendation to amend the Annex made by the Commission in accordance with the provisions of Article III, Section 1.

2. The Commission shall notify all the Contracting Parties of the date of receipt of each notification of acceptance of an amendment to the Annex.

*Article VIII*

The Contracting Parties agree to keep as far as practicable all records requested by the Commission and to furnish compilations of such records and other information upon request of the Commission. No Contracting Party shall be required hereunder to provide the records of individual operations.

*Article IX*

1. The Contracting Parties agree as follows:

(a) With regard to a stock of fish from the exploitation of which any Contracting Party has agreed to abstain, the nationals and fishing vessels of such Contracting Party are prohibited from engaging in the exploitation of such stock of fish in waters specified in the Annex, and from loading, processing, possessing, or transporting such stock of fish in such waters.

(b) With regard to a stock of fish for which a contracting party has agreed to continue to carry out conservation measures, the nationals and fishing vessels of such party are prohibited from engaging in fishing activities in waters specified in the annex in violation of regulations established under such conservation measures.

2. Each contracting party agrees, for the purpose of rendering effective the provisions of this convention, to enact and enforce necessary laws and regulations, with regard to its nationals and fishing vessels, with appropriate penalties against violations thereof and to transmit to the commission a report on any action taken by each party with regard thereto.

*Article X*

1. The contracting parties agree, in order to carry out faithfully the provisions of this convention, to co-operate with each other in taking appropriate and effective measures and accordingly agree as follows:

(a) When a fishing vessel of a contracting party has been found in waters in which that party has agreed to abstain from exploitation in accordance with the provisions of this convention, the duly authorized officials of any contracting party may board such vessel to inspect its equipment, books, documents, and other articles and question the persons on board.

Such officials shall present credentials issued by their respective governments if requested by the master of the vessel.

(b) When any such person or fishing vessel is actually engaged in operations in violation of the provisions of this convention, or there is reasonable ground to believe was obviously so engaged immediately prior to boarding of such vessel by any such official the latter may arrest or seize such person or vessel. In that case, the contracting party to which the official belongs shall notify the contracting party to which such person or vessel belongs of such arrest or seizure and shall deliver such vessel or person as promptly as practicable to the authorized officials of the contracting party to which such vessel or person belongs at a place to be agreed upon by both parties. Provided,

however, that when the contracting party which receives such notification cannot immediately accept delivery and makes request, the contracting party which gives such notification may keep such person or vessel under surveillance within its own territory, under the conditions agreed upon by both of the contracting parties.

(c) Only the authorities of the party to which the above-mentioned person or fishing vessel belongs may try the offence and impose penalties therefor. The witnesses and evidence necessary for establishing the offence, so far as they are under the control of any of the parties to this convention, shall be furnished as promptly as possible to the contracting party having jurisdiction to try the offence.

2. With regard to the nationals or fishing vessels of one or more contracting parties in waters with respect to which they have agreed to continue to carry out conservation measures for certain stocks of fish in accordance with the provisions of this convention, the contracting parties concerned shall carry out enforcement severally or jointly. In that case, the contracting parties concerned agree to report periodically through the commission to the contracting party which has agreed to abstain from the exploitation of such stocks of fish on the enforcement conditions, and also, if requested, to provide opportunity for observation of the conduct of enforcement.

3. The Contracting Parties agree to meet, during the sixth year of the operation of this Convention, to review the effectiveness of the enforcement provisions of this Article and, if desirable, to further consider means by which they may more effectively be carried out.

#### Article XI

1. This Convention shall be ratified by the Contracting Parties in accordance with their respective constitutional processes and the instruments of ratification shall be exchanged as soon as possible at Tokyo.

2. This Convention shall enter into force on the date of the exchange of ratifications. It shall continue in force for a period of ten years and thereafter until one year from the day on which a Contracting Party shall give notice to the other Contracting Parties of an intention of terminating the Convention, whereupon it shall terminate as to all Contracting Parties.

In witness whereof, the respective Plenipotentiaries, duly authorized, have signed the present Convention.

Done in triplicate, in the English and Japanese languages, both equally authentic, at Tokyo this.....day of one thousand nine hundred fifty.....

#### Annex

1. With regard to the stocks of fish and the waters named below, Japan agrees to abstain from fishing, and Canada and the United States of America agree to continue to carry out necessary conservation measures, in accordance with the provisions of Article V, Section 2 of this Convention:

(a) Halibut (*Hippoglossus stenolepis*)

The Convention area off the coasts of Canada and the United States of America in which commercial fishing for halibut is being or can be prosecuted. Halibut referred to herein shall be those originating along the coast of North America.

(b) Herring (*Clupea pallasii*)

The Convention area off the coasts of Canada and the United States of America, exclusive of the Behring Sea and of the waters of the

North Pacific Ocean west of the meridian passing through the extremity of the Alaskan Peninsula, in which commercial fishing for herring of North American origin is being or can be prosecuted.

- (c) Salmon (*Oncorhynchus gorbuscha*, *Oncorhynchus keta*, *Oncorhynchus kitsutch*, *Oncorhynchus nerka*, *Oncorhynchus tshawytscha*) The Convention area off the coasts of Canada and the United States of America, exclusive of the Behring Sea and of the waters of the North Pacific Ocean west of a provisional line following the meridian passing through the western extremity of Atka Island, in which commercial fishing for salmon originating in the rivers of Canada and the United States of America is being or can be prosecuted.

2. With regard to the stocks of fish and the waters named below, Canada and Japan agree to abstain from fishing, and the United States of America agrees to continue to carry out necessary conservation measures, in accordance with the provisions of Article V, Section 2 of this Convention:

Salmon (*Oncorhynchus gorbuscha*, *Oncorhynchus keta*, *Oncorhynchus kitsutch*, *Oncorhynchus nerka* and *Oncorhynchus tshawytscha*). The Convention area of the Behring Sea east of the line starting from Cape Prince of Wales on the west coast of Alaska, running westward to 168° 58' 22.59" West Longitude; thence due south to a point 65° 15' 00" North Latitude; thence along the great circle course which passes through 51° North Latitude and 167° East Longitude, to its intersection with meridian 175° West Longitude; thence south along a provisional line which follows this meridian to the territorial waters limit of Atka Island; in which commercial fishing for salmon originating in the rivers of the United States of America is being or can be prosecuted.

#### PROTOCOL TO THE PROPOSED INTERNATIONAL CONVENTION FOR THE HIGH SEAS FISHERIES OF THE NORTH PACIFIC OCEAN

The Governments of Canada, Japan and the United States of America, through their respective Plenipotentiaries, agree upon the following stipulation in regard to the International Convention for the High Seas Fisheries of the North Pacific Ocean, signed at Tokyo on this.....day of....., nineteen hundred fifty.....

The Governments of Canada, Japan and the United States of America agree that the line of meridian 175° West Longitude and the line following the meridian passing through the western extremity of Atka Island, which have been adopted for determining the areas in which the exploitation of salmon is abstained or the conservation measures for salmon continue to be enforced in accordance with the provisions of the Annex to this Convention, shall be considered as provisional lines which shall continue in effect subject to confirmation or readjustment in accordance with the procedure mentioned below.

The Commission to be established under the Convention shall, as expeditiously as practicable, investigate the waters of the Convention area to determine if there are areas in which salmon originating in the rivers of Canada and of the United States of America intermingle with salmon originating in the rivers of Asia. If such areas are found the Commission shall conduct suitable studies to determine a line or lines which best divide salmon of Asiatic origin and salmon of Canadian and United States of America origin, from which certain Contracting Parties have agreed to abstain in accordance with the provisions of Article IV, and whether it can be shown beyond a reasonable doubt that this line or lines more equitably divide such salmon than the

provisional lines specified in sections 1 (c) and 2 of the Annex. In accordance with these determinations the Commission shall recommend that such provisional lines be confirmed or that they be changed in accordance with these results, giving due consideration to adjustments required to simplify administration.

In the event, however, the Commission fails within a reasonable period of time to recommend unanimously such line or lines, it is agreed that the matter shall be referred to a special committee of scientists consisting of three competent and disinterested persons, no one of whom shall be a national of a Contracting Party, selected by mutual agreement of all Parties for the determination of this matter.

It is further agreed that when a determination has been made by a majority of such special committee, the Commission shall make a recommendation in accordance therewith.

The Governments of Canada, Japan and the United States of America, in signing this Protocol, desire to make it clear that the procedure set forth herein is designed to cover a special situation. It is not, therefore, to be considered a precedent for the final resolution of any matters which may, in the future, come before the Commission.

This protocol shall become effective from the date of entry into force of the said Convention.

In Witness Whereof, the respective Plenipotentiaries have signed this Protocol.

Done in triplicate at Tokyo this.....day  
of ..... one thousand nine hundred fifty.....

CANADA:

JAPAN:

UNITED STATES OF AMERICA:



Standing Committee 1952  
HOUSE OF COMMONS

Sixth Session—Twenty-first Parliament, 1952

CA 1 X 14  
-H/2

---

STANDING COMMITTEE

ON

MARINE AND FISHERIES

*Chairman:* T. G. W. ASHBOURNE, Esq.

---

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

---

TUESDAY, MAY 27, 1952

WEDNESDAY, MAY 28, 1952

THURSDAY, MAY 29, 1952

---

Draft International Convention for the High Seas Fisheries of the  
North Pacific Ocean.

WITNESSES:

Mr. Stewart Bates, Deputy Minister of Fisheries; Mr. K. Fraser, Fisheries Association of British Columbia; Mr. C. G. O'Brien, Manager, Fisheries Council of Canada; Mr. Homer Stevens, United Fishermen and Allied Workers' Union.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1952



### ORDERS OF REFERENCE

MONDAY, May 26, 1952.

*Ordered*,—That the name of Mr. Goode be substituted for that of Mr. Harrison on the said Committee.

THURSDAY, May 29, 1952.

*Ordered*,—That the name of Mr. Bryce be substituted for that of Mr. Herridge on the said Committee.

Attest.

LEON J. RAYMOND,  
*Clerk of the House.*

## MINUTES OF PROCEEDINGS

TUESDAY, May 27, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Blackmore, Blair, Cannon, Catherwood, Fulford, Gibson, Gillis, Goode, Herridge, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacLean (*Queens, P.E.I.*), MacNaught, McLean (*Huron-Perth*), McLure, Mott, Pearkes and Wood.

*In attendance:* Hon. R. W. Mayhew, Minister of Fisheries; Mr. Stewart Bates, Deputy Minister of Fisheries; Mr. K. Fraser of Vancouver, accredited delegate of the Fisheries Association of British Columbia; Mr. C. G. O'Brien, manager of the Fisheries Council of Canada.

The Chairman presented the *Second Report* of the Sub-Committee on Agenda and Procedure, which was read by the Clerk of the Committee, as follows:

Your Sub-Committee on Agenda and Procedure met on May 19 and May 26, 1952, and has agreed to present the following as its *Second Report*:

Your Sub-Committee has considered, amongst other matters of a routine nature, communications received to date as follows:

1. Under date of May 14, from the Deputy Minister of Fisheries, concerning a map requested on May 8 by the Chairman (*see page 37 of Evidence for request*) and also providing data on crab fishing requested on May 8 by Mr. Applewhaite (*see pages 42-43 of Evidence for request*);

2. Under date of May 10, from the Deep Sea Fishermen's Union of Prince Rupert, informing the Committee that neither a brief nor a representative would be forthcoming;

3. Under date of May 12 and May 21, from the United Fishermen and Allied Workers' Union of Vancouver, opposing ratification of the treaty; proposing, amongst other things, that the Committee provide financial assistance to fishery organizations interested in making oral representations, suggesting that such assistance would encourage larger delegations to appear before the Committee; and indicating that Mr. Homer Stevens would be in attendance as representative of the United Fishermen and Allied Workers' Union;

4. Memoranda of telephone conversations on May 19 and May 23 between Mr. C. G. O'Brien, Manager of the Fisheries Council of Canada, and the Clerk of the Committee informing the Committee as follows: That Mr. K. Fraser would be in attendance as representative of the Fisheries Association of British Columbia; that the Fisheries Council of Canada had nothing further to add to its resolution submitted to the Committee on May 6 (*see page 30 of Evidence*); and that the other two British Columbia member organizations of the Council (Wholesale Fish Dealers' Associations in Vancouver and Prince Rupert) would not be making any representations.

Your Sub-Committee has agreed to recommend thereon as follows:

1. That the map and crab fishing data from the Department of Fisheries be incorporated in the next issue of the Evidence. (*See today's evidence*)

2. That no financial assistance be provided in respect of travel and living expenses of fishery organizations' delegates making representations before the Committee.

3. That a copy of all advance briefs be circulated to the members of the Committee by the Clerk prior to the meeting at which they are to be considered and as soon as possible after receipt.

4. That all briefs received, but excluding ordinary correspondence, be printed as appendices to the Minutes of Proceedings and Evidence.

5. That Mr. K. Fraser, delegate of the Fisheries Association of British Columbia of Vancouver, B.C., be heard by the Committee at 11.00 o'clock a.m., Tuesday, May 27, 1952.

6. That Mr. Homer Stevens, delegate of the United Fishermen and Allied Workers' Union of Vancouver, B.C., be heard by the Committee at 4.00 o'clock p.m., Wednesday, May 28, 1952.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*

On motion of Mr. Balcom,

*Resolved*,—That the *Second Report* of the Sub-Committee on Agenda and Procedure be now concurred in.

Mr. Mayhew addressed the Committee, giving a statement on the treaty.

Mr. Fraser was called, heard and questioned by Members of the Committee on the statement, presented on behalf of the Fisheries Association of British Columbia, recommending ratification of the Tripartite Fisheries Treaty.

The witness retired.

Mr. O'Brien was recalled, heard and questioned.

The witness retired.

Mr. Bates was recalled for further questioning.

The witness retired.

At 12.05 o'clock p.m., the Committee adjourned until Wednesday, May 28, at 4.00 o'clock p.m.

WEDNESDAY, May 28, 1952.

The Standing Committee on Marine and Fisheries met at 4.00 o'clock p.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Blair, Catherwood, Gibson, Gillis, Goode, Henderson, Herridge, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacLean (*Queens, P.E.I.*), MacNaught, McLean (*Huron-Perth*), McLure, Mott, Pearkes, Stick and Thomas.

*In attendance:* Mr. Homer Stevens, of Vancouver, accredited delegate of the United Fishermen and Allied Workers' Union; Mr. K. Fraser, of Vancouver, accredited delegate of the Fisheries Association of British Columbia.

Mr. Stevens was called and proceeded to present a brief, submitted on behalf of the United Fishermen and Allied Workers' Union, opposing ratification of the Tripartite Fisheries Treaty.

A point of order was raised by Mr. Applewhaite that the brief contained disparaging allusions to a speech made in the other House.

Following discussion thereon, the Chairman ruled that the point of order was well taken and it was ordered that all references to a speech made in the other House appearing in the brief be excluded from the evidence.

Mr. Stevens resumed with the presentation of the brief and, having been heard, was questioned thereon.

The witness retired.

Mr. Fraser was recalled and provided the Committee with certain information requested at the previous meeting.

The witness retired.

The Committee agreed that Mr. Bates and Mr. Stevens be recalled for the next meeting to give further evidence and to be further questioned.

At 5.55 o'clock p.m., the Committee adjourned until Thursday, May 29, at 11.00 o'clock. a.m.

THURSDAY, May 29, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Blackmore, Blair, Catherwood, Fulford, Gibson, Gillis, James, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacNaught, McLure, Mott, Pearkes and Stuart (*Charlotte*).

*In attendance:* Mr. Stewart Bates, Deputy Minister of Fisheries; Mr. Homer Stevens, of Vancouver, accredited delegate of the United Fishermen and Allied Workers' Union; Mr. C. G. O'Brien, Manager of the Fisheries Council of Canada.

Mr. Stevens was recalled, gave further evidence, and was questioned thereon.

The witness retired.

The Chairman informed the Committee that the Vancouver and Prince Rupert Fishermen's Co-operative Associations have submitted a joint brief, dated May 26, listing objections to the proposed treaty; and that a nightletter has been received from the said Co-operatives endorsing the brief of the United Fishermen and Allied Workers' Union.

On motion of Mr. Pearkes,

*Ordered,*—That the brief from the Vancouver and Prince Rupert Fishermen's Co-operative Associations be now read by the Clerk of the Committee.

Mr. Bates was recalled but it was agreed that examination of the witness be deferred until the next meeting.

At 12:15 o'clock p.m., the Committee adjourned until 11:00 o'clock a.m., Thursday, June 5, at which time the Deputy Minister and the Director of Legal Service of the Department of Fisheries are to be examined.

A. Small,  
Clerk of the Committee.



## EVIDENCE

MAY 27, 1952,  
11.00 a.m.

The CHAIRMAN: Order, gentlemen. We have a quorum.

The members of the committee will see that maps have been distributed and they are on the table for you.

I want to say that we welcome here this morning Mr. Tom Goode, who has been appointed to this committee in place of Mr. Harrison. We are very sorry that Mr. Harrison could not continue on the committee.

Mr. GOODE: In reply, Mr. Chairman, may I say that I speak for Mr. Harrison in expressing his regret at not being able to continue on the committee. May I say also that I am very interested in this committee and that I will do everything I can to co-operate with you, sir.

The CHAIRMAN: I have the honour of presenting the second report of the subcommittee and I will ask the clerk to read it. (*See today's Minutes of Proceedings*).

I would suggest that Mr. Bates' letter referred to the subcommittee's Report and the data supplied by him be inserted in the Evidence at this point.

DEPUTY MINISTER OF FISHERIES

OTTAWA, May 14, 1952.

Dear Sir,

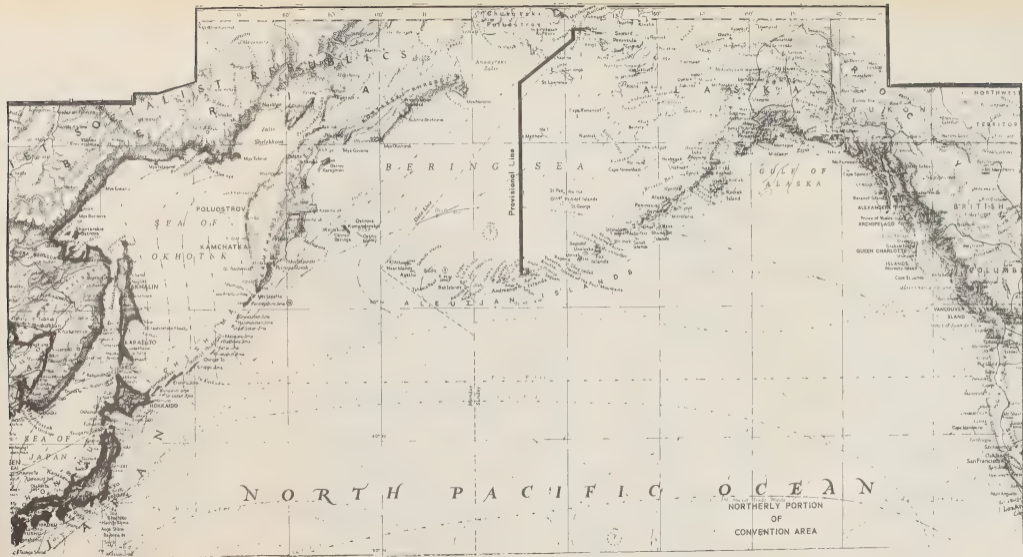
I have your letter of May 12 relative to certain information requested by the Standing Committee on Marine and Fisheries.

A map of the Pacific area is being obtained and sufficient copies should be available within the next week. As soon as we have them I shall forward them to you for distribution to members of the Committee.

With regard to information concerning the crab production in British Columbia, the total catch in 1951 amounted to 1,811,000 lbs. Of this total 778,700 lbs. were produced in the Dixon Entrance and Hecate straits areas. We have no means of determining what proportion of this amount was taken beyond the three-mile limit of the Canadian shorelines, but probably most of it was obtained in offshore waters. According to our statistical records the balance of the production (1,032,300 lbs.) was produced in areas within Canadian territorial limits of the southern part of the province.

Yours very truly,  
Sgd. Stewart Bates,  
*Deputy Minister.*

Mr. A. Small,  
Clerk of the Standing Committee  
on Marine & Fisheries,  
House of Commons,  
Ottawa.





Mr. BALCOM: I would move that the second report of the subcommittee an agenda and procedure be adopted.

Mr. APPLEWHAITE: I would second that motion, Mr. Chairman.

The CHAIRMAN: It has been moved by Mr. Balcom, and seconded by Mr. Applewhaite, that the second report of the subcommittee on agenda and procedure be adopted. The motion is now before you. Those in favour please say aye, those opposed, nay. I declare the motion carried.

We are very pleased to see Mr. Mayhew here with us this morning.

Hon. Mr. MAYHEW: Thank you very much, Mr. Chairman, it is a pleasure to be here.

The CHAIRMAN: Will you come up to the table, Mr. Mayhew, please? As I said before, we are glad to welcome Mr. Mayhew here this morning and I am sure that the committee, all of us, would be glad if Mr. Mayhew would be prepared to make a statement at the present time. I understand that he will not be able to be with us for very long so that before we hear other witnesses I will ask Mr. Mayhew to address the committee.

Hon. Mr. MAYHEW: Mr. Chairman, it is indeed a pleasure to be asked to say a word at this time. What I have to say will have to be a short statement; because of other commitments I have to be brief.

The CHAIRMAN: We don't want to limit you, sir, at all.

Hon. Mr. MAYHEW: And I am very happy to have a committee like this to turn this treaty over to. We think the treaty, or the tripartite agreement that has been arrived at between Canada, the United States and Japan, is a fair one, and that it is worthy of careful examination by this committee, and I am equally sure that it will get the very careful examination that it deserves.

We think—at least I think—it is an agreement which, while the terms of it are for 10 years, will continue long after the 10 years are over because it is based on fairness. There is nothing punitive in the agreement, as one might expect when you are dealing with a nation with which we have been at war and at whose hands Canada in common with other countries has suffered considerably; but in this agreement we feel there was no reason why we should try to perpetuate something that was unjust, because there have been unjustnesses on either side. We felt that in an agreement of this kind we are asking for protection of a vested interest which we have in our salmon, and in our herring and in our halibut and if we had not had years of conservation and of management on these species of fish they would not be in existence today. If we do not continue that process of management and conservation they will disappear; so that as long as we are conserving them, we feel that we have a vested interest in these species of fish along our coast line. And because of that it was only right and only fair to ask Japan to waive her rights, not to her high seas fishing, but to waive her rights to fishing along our coasts for these three species of fish. If we were asked to recognize the same principle in any other country I think we would be prepared to do it, because if these fish are anybody's property at all, they are the property of Canada and the United States. We obtained something as a result; we have gained the protection that we have in this treaty. It would take but a few years of fishing with the methods that Japan or any other country can use today, to wipe out the stock of salmon and halibut along our coast. With this treaty we feel that we can continue to preserve these fish not only for ourselves but as a food bank for the world, and the world will be needing it more and more as its population increases. They will need more and more the food bank that we can maintain by preserving these species of fish. And

I think, as you study this treaty, you will feel that it does not really put any hardship on anybody. We have gained what we were trying to do from the start, the protection and the preservation along our shores of these species of fish.

I do not want to go into details further about it. Of course, you have had the evidence given to you by Mr. Bates. I read it over two or three times since it was printed; and, as I always am, I was proud of Mr. Bates in presenting the case to you here; and we have a right to be proud of our Deputy Minister of Fisheries, as I am.

I was proud of the whole delegation that went to Japan in connection with the treaty.

So far as we are concerned it has not been just something that has been with us for a matter of two or three months, it is not well over a year since we first started an intensive study of what was required, but our thinking of it has gone back to the time I joined the Department of Fisheries. And I would be disappointed indeed if anyone could find any real cause why Canada should not freely join, and be glad to join any report to parliament recommending that the government of Canada ratify this treaty.

Now, I do not intend to attend your meetings, but I will be on hand at any time if I am needed while this matter is under discussion. Thank you very much, Mr. Chairman.

The CHAIRMAN: Thank you very much, Mr. Mayhew for this statement on the treaty. On behalf of the committee, I would like to express our thanks and our appreciation for the hard work which has gone into this treaty by the Canadian delegation of which you were the chairman, and we feel that the many hours of hard work in getting this treaty to its present shape and having it negotiated in Tokyo last December was the result of your efforts as well as the efforts of Mr. Bates and the other officials who have been working so long on this matter. Personally I would like to say that, in my opinion, the matter of conservation cannot be over-stressed, and as we go along in consideration of the treaty, if occasion should arise, we will be very glad to get in touch with you to help us out.

Now, we have with us this morning Mr. K. Fraser, representing the Fisheries Association of British Columbia, Vancouver, B.C. The statement, or brief which Mr. Fraser has sent, has been distributed to the members of the committee and I will now welcome Mr. Fraser and ask him to come forward for hearing and questioning by the committee. Mr. K. Fraser, please.

**Mr. K. Fraser, representing Fisheries Association of British Columbia, Vancouver, B.C., called:**

The WITNESS: Mr. Chairman, and honourable members of the committee: I am appearing before you on behalf of the Fisheries Association of British Columbia, which includes within its membership processors accounting for the great bulk of the fish processed in that province. In addition to processing, many of our member companies are engaged in the catching of fish, owning their own fishing vessels. The membership of this association comprises the following firms:

A.B.C. Packing Company Ltd., Vancouver, B.C.  
British Columbia Packers Ltd., Vancouver, B.C.  
Canadian Fishing Company Ltd., Vancouver, B.C.  
Cassiar Packing Company Ltd., Vancouver, B.C.  
Colonial Packers Ltd., Vancouver, B.C.  
Great West Packing Co. Ltd., Steveston, B.C.  
Francis Millerd & Co. Ltd., Vancouver, B.C.  
Johnston Fishing & Packing Co. Ltd., New Westminster, B.C.

National Fisheries Ltd., Vancouver, B.C.  
Nelson Brothers Fisheries Ltd., Vancouver, B.C.  
North Shore Packing Co. Ltd., North Vancouver, B.C.  
Queen Charlotte Fisheries Ltd., Vancouver, B.C.  
J. H. Todd & Sons Ltd., Victoria, B.C.  
Westminster Cannery Ltd., New Westminster, B.C.

The Fisheries Association of British Columbia is one of the member associations of the Fisheries Council of Canada. You have received a submission from the fisheries council arising out of a resolution passed at its recent annual meeting in Vancouver. My presence here today is for the purpose of giving emphasis to that resolution, which approved of the fishing treaty under discussion, without qualification, and which recommended its ratification by parliament.

The Fisheries Association of British Columbia believes this to be a worthwhile treaty because:

It is based on sound conservation principles.

It establishes a precedent of international co-operation in fisheries.

It is a workable treaty, freely accepted.

It safeguards our basic raw material and makes possible the proper management and protection of other species important to our fishery.

It does not prejudice our claims with respect to territorial waters.

In short, we believe this treaty to be a step in the right direction and support the resolution placed before you by the Fisheries Council of Canada approving of it, without qualification, and recommending its ratification by Parliament. Thank you.

The CHAIRMAN: Thank you very much, Mr. Fraser for your submission. Are there any members of the committee who would like to question Mr. Fraser?

*By Mr. Applewhaite:*

Q. I would like to ask Mr. Fraser, if I may, one question. I take it that this list of members which he has read to us gives us their head office addresses—they are situated in the Vancouver-New Westminster-Victoria area, which is the extreme south end of the province. I wonder if Mr. Fraser would please indicate to the committee, and for the record, those members of his association who have a substantial interest farther north than that area—say particularly around the north end of Vancouver Island, around the Prince Rupert area and the Queen Charlotte area?—A. Are you referring to, for instance, the Fisheries Association plants?

Q. What I want to do is to make sure for the record that you are not speaking only for a small group in the area around Vancouver and Victoria. I would like to get on the record, and I do not want to tell you what I want you to say, what companies in your membership have substantial fishing interests other than in the immediate locality of Vancouver and Victoria?—A. Well, the larger companies referred to in this submission: the A. B. C. Packing Company, British Columbia Packers Limited, Canadian Fish Company Limited, Nelson Bros. Ltd., J. H. Todd, Francis Miller and Company Limited, all have operations extending from Vancouver all the way along the coast line of British Columbia up to and including the Prince Rupert district. One of British Columbia's largest plants is in the Rupert district. Does that answer the question?

*By Mr. Goode:*

Q. Mr. Fraser enumerated a number of companies which his association represents and as I put them down the figure is 14. What percentage of the

total operators in British Columbia does this association represent?—A. This list of operators represents 100 per cent of the cannerys of British Columbia.

Q. Then we can say and take it for granted, and I am a new member on the committee, that you represent all the producers in British Columbia?

*By Mr. Gibson:*

Q. That would not include the co-operatives?—A. No, it does not include the co-operative organizations.

Q. So, actually, you do not speak for 100 per cent of the pack?—A. 100 per cent of the members of the association, not 100 per cent of the fish processors.

*By Mr. Goode:*

Q. What percentage of the fish processed would you represent, or would your association represent, Mr. Fraser?—A. That is a question I would like to spend some time on and get an actual figure.

Q. Could we have that figure before Mr. Fraser leaves, perhaps tomorrow?—A. Yes.

The CHAIRMAN: You will be available tomorrow, Mr. Fraser?

The WITNESS: That is correct.

Mr. GOODE: As Mr. Fraser knows, what I am trying to develop is the representation that he has among the interested parties in British Columbia. Perhaps you can tell me what percentage of the pack on the Fraser river you represent—in regard to the brief you gave this morning? That will localize it a little.

The WITNESS: I would say upwards of 90 per cent.

*By Mr. Gibson:*

Q. Would it be fair to say that you represent 75 per cent of all the fish processed in British Columbia?—A. I should think that would be a minimum.

Q. I would think so too.—A. But I would like to give some thought to it and get some more accurate information so that it will not be misleading to the committee.

Mr. GOODE: Is this 90 per cent figure you gave fairly accurate—it is the area you come from and you know it well?

The WITNESS: Yes.

The CHAIRMAN: Are there any other questions?

*By Mr. Gibson:*

Q. Mr. Fraser, there has been a suggestion by representatives of the United Fishermen and Allied Workers' Union that it is possible that in an organization such as yours you probably have international fishing and monetary connections. By virtue of that fact, it has been suggested that it is just possible that you would not be so concerned with the Canadian aspect of this treaty as the fishermen themselves are. Do you think there is any validity at all in that statement?—A. Emphatically no. That is not correct at all.

As far as we are concerned, I am speaking now of the association, the Fisheries Association of British Columbia, our interests and those of the fishermen are identical in that we both are interested in protecting the raw material. As far as the interests of the companies I am representing today are concerned they have, if anything, the greatest interest. They have interest in the fish, equipment, and boats. We own large plants which are not mobile.

Q. In Canada, that is?—A. In Canada. We have a large interest in advancing the fishermen. If anything our interest in this whole treaty is greater than that of the fishermen. We are at a loss to understand why their views are completely opposite to ours on this treaty.

Mr. GIBSON: Mr. Chairman, have the co-operatives of British Columbia indicated that they wish to make a presentation to the committee?

The CHAIRMAN: No, Mr. Gibson. They were notified but there was no reply from them.

Mr. GIBSON: Which would indicate then that they are satisfied—as far as the co-operatives are concerned you would assume that?

The CHAIRMAN: In reply to Mr. Gibson, I think that is a matter for the committee to come to some decision on. I could not say definitely and I would not like to take upon myself the responsibility of saying that they were; but at any rate there is no reply from the Prince Rupert Fishermen's Co-operative Association, nor from the Fishermen's Co-operative Association, nor from the Native Brotherhood of British Columbia, nor from the Canadian Fishing Vessels Owners Association.

Letters were sent to ten organizations regarding representations and, with the exception of those now named, replies came. The Vancouver Wholesale Fish Dealers Association, and the Prince Rupert Wholesale Fish Dealers Association were members of the Fishery Council of Canada and there were no representations to be made by them.

Mr. GIBSON: Thank you.

*By Mr. Mott:*

Q. Mr. Chairman, I would like to ask Mr. Fraser a question. Perhaps he is not in a position to answer it and if so that is quite all right. It has been mentioned here previously, during our discussions, that American interest—perhaps the word should be “control”—the three large cannery operations in Canada on the Pacific coast. That was mentioned at some meetings I attended on the coast. Can you say anything on that?—A. To the best of my knowledge that statement is incorrect.

Q. How much of your pack that you know of goes to the United States? Take last year's pack or for the last four or five years?—A. I think I would estimate around 36 per cent.

The CHAIRMAN: Are there any other amounts exported, Mr. Fraser? Any other amounts of your products?

The WITNESS: Well, we have in the past enjoyed an overseas market but we are all familiar with what has developed in those markets at this time. The United States at the present time represents our biggest export market.

Mr. BALCOM: Is that export to the United States increasing?

The WITNESS: It appears to be, yes—on certain species and lines of fish.

*By Mr. Herridge:*

Q. Mr. Fraser, would you say the Fisheries Association of British Columbia as represented by you this morning generally support the conservation policy designed by the Department of Fisheries, and co-operate in that respect?—A. Definitely.

Q. What would be the attitude of co-operatives towards the policies of the department? I am not speaking of the treaty but I am speaking of the conservation policies?—A. I would prefer them to answer that question.

*By Mr. Pearkes:*

Q. Mr. Fraser, can you say whether any of the fish caught by the vessels of the companies you represent are delivered to canneries in the United States, or are they delivered to canneries in Canada?—A. All the fish caught by the fishing organization in British Columbia are delivered to British Columbia ports—with the exclusion of tuna and in some instances halibut.

Q. Salmon?—A. Salmon in our area—it is possible as we have servicing craft that pick-up off the grounds that there have been some deliveries to the canneries in Puget Sound.

Q. Service craft?—A. Yes, collectors.

Q. What percentage of that would be taken to the American canneries?—

A. That question would be very difficult to answer.

Q. Fifty per cent?—A. Oh, no.

Mr. APPLEWHAITE: If I may interrupt for a moment, I would not like the record to stop as inconclusively as it did on Mr. Herridge's question. It would perhaps create a false impression. I think I should in fairness state that my experience, over many years, has been that the co-operatives in British Columbia whole-heartedly and genuinely support the conservation programs that have been put in. I hope you do not mind me saying that but I do not want the record to indicate that there was perhaps an assumption that they did not.

Mr. PEARKES: If that statement is to go on the record I think perhaps I should add that the fishermen and the unions also co-operate—and not let it rest merely at the co-operatives.

Mr. APPLEWHAITE: That is correct.

*By Mr. Goode:*

Q. In regard to Mr. Mott's question, as you remember he tried to develop the fact that the United States interests controlled, or had an interest in some of the packing companies. Are there any packing companies you know of that are totally controlled by United States interests?—A. No.

Q. Let us go into the 36 per cent of the pack that goes to the United States. How has that 36 per cent of your pack been developed in that market? Is it money spent by the department? Is it money that has been spent through co-operation of the department and the packing companies, or have the packing companies developed the market themselves? If you can tell me, how much money has been spent in that market to develop that 36 per cent?—A. The development of the U.S. market has been of a joint nature—the industry and the department have participated in developing that particular market. The type of fish exported is our frozen fish in the forms of frozen head-off, and also our fillet production. On the other question you ask I have not got information.

Q. It would be fair to say that this 36 per cent has not just come to the producers? Either the department by itself, or in co-operation with the producers, has gone out and got that market. It has not just come to them. Has there been money spent in large quantities to get that United States market or have they just come and bought fish?—A. The Canadian government has spent some money in introducing the product and the industry too, in turn, has improved their processing and their merchandise which has made it attractive to that particular market.

Q. To come to another point, how many men, and this is perhaps not in the proper phraseology, but as far as wages and salaries paid by the association are concerned, how many men do you employ entirely outside of the fishing?—A. I do not know an accurate figure to give you but it is somewhere in the neighbourhood of 10,000.

Q. Would that include the active fishermen?—A. No, it would include those people associated with the processing—collectors, tenders, plant crews, etc.

Q. How many fish for your association—that is men who own their own boats?—A. That is a figure I would like to give you tomorrow.

Q. Could I have that tomorrow?

The CHAIRMAN: That will be satisfactory.

*By Mr. Goode:*

Q. I would also like to know, if you can get it for me, the total wage roll in round figures paid by the association per annum, and the amount of money paid to the fishermen fishing both in territorial waters and outside Canadian waters—on an annual basis?—A. You want the total moneys paid to inshore fishermen and off-shore fishermen?

Q. Yes, and the moneys paid to direct employees of the association—cannery employees etc.—the 10,000 figure that you gave?

The CHAIRMAN: Are there any further questions that members of the committee wish to address to Mr. Fraser?

Very well, thank you Mr. Fraser and we will be glad to see you again tomorrow.

I would like to say that Mr. Stewart Bates, deputy minister of the department is here in case any member of the committee would like to address any questions to him. Also we have with us Mr. C. G. O'Brien who would like to address the committee on behalf of the Fisheries Council of Canada. We have already welcomed Mr. O'Brien and had a statement from him at our first meeting. It was rather rushed at that time because he came on just before adjournment time at one o'clock.

We are glad to have Mr. O'Brien here now and I would ask him to come and make his statement to the committee after which if there are any questions you would like to address to him no doubt Mr. O'Brien will be glad to answer.

**Mr. C. J. O'Brien, Fisheries Council of Canada, called:**

The WITNESS: Mr. Chairman and gentlemen:

Since you are not, at least as a committee, pressed for time this morning, I should like to take this opportunity of correcting an impression which the report of your meeting on May 6 may have conveyed to you.

On page 30 of that report I am quoted, incorrectly, as having said: "I may say that the treaty has been the cause of some concern, but we are now of the opinion that the type of that agreement will work out to the advantage of all concerned."

What I did say was that the Fisheries Council of Canada regarded this treaty as one meriting the attention of the fishing industry on a national basis. Since it embodied new principles, the fishing industry wished to assure itself that those principles were of a type which could not be used to Canada's detriment in any future fisheries agreements.

However, at no time has the fishing industry, as represented by the Fisheries Council of Canada, been "concerned" about the terms of this agreement, in the sense that the word "concerned" might be interpreted as meaning "worried". We have supported it consistently and the views placed before you on May 6 were those which we have held from the beginning and are views which, after perusing the text of Mr. Bates' address to you, we hold now with added conviction. Thank you.

*By Mr. Pearkes:*

Q. Would that apply to the attitude of Mr. Buchanan before he left to go overseas—to say at no time were the Fisheries Council concerned—was he representing the Fisheries Council at that time?—A. At all times since the department has released information with respect to the progress of the negotiations and details with respect to what was planned for the treaty, the Fisheries Council has received that information and has kept its member associations advised and at no time during that period in the last year have there been any objections come from any of the member associations of the council to the proposed terms of the agreement.

Q. Do you mean by that that only since the agreement was signed in Tokyo? Some information surely was given to the council before the agreement was signed at Tokyo—a draft of the agreement was promulgated before the members of the Canadian delegation sailed for Tokyo?—A. Yes, sir. Perhaps I did not make it quite clear that we did receive at all times any information which was available to public bodies and at no time were we dissatisfied or worried about what the department proposed doing in terms of that agreement on behalf of Canada.

Q. Was Mr. Buchanan representing the council before the delegation left for Tokyo?—A. I think perhaps Mr. Bates could answer that question better than I could.

Mr. STEWART BATES (*Deputy Minister of Fisheries*): I think, sir, he was named in the order in council as an industrial adviser to the delegation.

Mr. PEARKES: By the council?

Mr. BATES: By the order in council appointing the delegation he was named as an industrial adviser to the delegation.

Mr. PEARKES: Is he a member of the Fisheries Council of Canada?

Mr. BATES: Yes, but in the order in council of the federal government appointing the delegation he was named as an industrial adviser to the delegation.

Mr. PEARKES: You were also a member of that delegation?

Mr. BATES: Yes.

Mr. PEARKES: Do you recall any statement made by Mr. Buchanan expressing any fears or concern about the agreement before he left for Tokyo?

Mr. BATES: No, sir. Before the delegation left for Tokyo there were many discussions with the whole industry, not only the Fisheries Council but the whole group which comprised also the Co-operatives, the United Fishermen and Allied Workers Union, the Vessel Owners' Association, the Native Brotherhoods—the five groups representing industry met with us on more than one occasion. There were many views expressed. There were differences of opinion, some differences between them, differences within the groups. Some of these differences remain and, no doubt, the committee will hear some of them when representatives of some of these groups appear before you.

Mr. PEARKES: There was some publicity given to statements that Mr. Buchanan had made, rather radical changes in the opinion he held while en route to Tokyo. Before he left I understand he had expressed some considerable concern. I was asking you if you had any recollection of such things happening.

Mr. BATES: I think before Mr. Buchanan left his views were the same as ours.

Mr. PEARKES: His views?

Mr. BATES: His views were the same as ours.

Mr. GIBSON: He had an open mind, in other words?

Mr. BATES: Mr. Chairman, our minds were not open. They were not open in the sense that we were proceeding to Japan in vacuity. We had some definite Canadian purposes in mind that we wished to get achieved through the treaty. To that extent, our minds were not open. We were not ready to be buffeted about by all the winds of fortune. We had some purposes in mind and with these purposes Mr. Buchanan was in agreement.

Mr. GOODE: There was no difference in opinion between members of the delegation—that is what you mean?

Mr. BATES: Exactly.

*By Mr. Applewhaite:*

Q. Mr. Chairman, would Mr. O'Brien tell us what the Fisheries Council of Canada is composed of?—A. The Fisheries Council of Canada is composed of the 15 regional fisheries associations across Canada, a list of which is contained on page 29 of the committee report.

Q. It does not include co-operatives?—A. It does include co-operatives, but not all co-operatives in Canada.

Q. Is there on the Fisheries Council of Canada any representation directly from the Fisheries Department?—A. The Fisheries Council of Canada is a purely trade association.

Q. Then the answer will be no?—A. The answer is no.

Mr. GOODE: Mr. Chairman, I must apologize for asking so many questions this morning, but I hope you will bear with me inasmuch as I am a new member on this committee.

The CHAIRMAN: That is perfectly all right, Mr. Goode. We are glad to have your questions.

*By Mr. Goode:*

Q. During the questioning of Mr. O'Brien, he said in reply to a question from Mr. Pearkes that when the delegation left Canada the Fisheries Council were not worried. Does he mean that they were not worried as far as the outlook for industry is concerned or not worried as far as the outlook of the workers and fishermen were themselves concerned. Was this a Canadian outlook they took or a more or less restricted outlook as far as the industry was concerned?—A. Perhaps I could answer that by saying that in all matters with which the Fisheries Council of Canada has to deal, the national interest, which cannot ignore the interests of the fishermen, is at all times very much in mind. Therefore it was the broadest national interest that we had in mind.

Q. Speaking as a representative of the Fisheries Council—and I think this is a fair question—do you think this treaty is not only good on behalf of the industry, but good on behalf of the fishermen, too? I think I can ask that question because you gave an answer to the first one.—A. Definitely.

Q. Could I ask, Mr. Chairman, a question of Mr. Bates?

The CHAIRMAN: I think perhaps if we conclude the questioning of Mr. O'Brien it will be preferable, if that is agreeable.

Mr. APPLEWHAITE: I would like to ask Mr. O'Brien what co-operatives on the Pacific coast are members of the Fisheries Council?

The WITNESS: There are no co-operatives on the Pacific coast members of the Fisheries Council. The two large fishery co-operatives on the east coast are members through their membership in various of our member associations on the east coast.

*By Mr. Pearkes:*

Q. Have the co-operatives ever made application to be members of the Fisheries Council, that is, the co-operatives on the Pacific coast?—A. I believe that some years ago, before my association with the Fisheries Council, such application was considered. Nothing came of the negotiations between the two groups.

Q. It was not as recent as two years ago?—A. I believe, sir, it was a little longer ago than that. I have been with the Fisheries Council just 15 months and I believe that it was several years before that.

Q. You would not tell why the application was refused?—A. I would not be able to answer that question at this time, no.

The CHAIRMAN: I do not think he used the word "refused", did he?

The WITNESS: I beg your pardon?

The CHAIRMAN: I do not think you used the word "refused", did you?

Mr. PEARKES: No, it was I who used the word "refused".

Mr. GIBSON: Not consummated.

The WITNESS: There were negotiations which, I shall say, did not work out.

The CHAIRMAN: Any other questions?

Mr. HERRIDGE: Is there anything in the constitution of the Fisheries Council of Canada that would make it difficult for co-operative producers to be members?

The WITNESS: No, sir.

Mr. GOODE: In connection with this word "refused" that was used by Mr. Pearkes, is it that the co-operatives were refused to become a member of the Fisheries Council?

Mr. PEARKES: Could you speak a little louder, please? I cannot hear a word.

*By Mr. Goode:*

Q. Is it proper to use the word that Mr. Pearkes used, that they were refused admission to the Fisheries Council.—A. I think it would be preferable to say that the matter was discussed and the two bodies concerned could not come to a suitable agreement with respect to membership.

Q. So it was just a breakdown of negotiations, it was no refusal?—A. To my knowledge it was a breakdown of negotiations arising over facts which I am not sufficiently acquainted with, I must admit, to put in detail in the record.

Mr. APPLEWHAITE: But you have co-operative members on the Atlantic side?

The WITNESS: Yes, there are only two large co-operatives on the eastern coast, the United Maritime Fisheries and the Quebec United Fishermen, both of which are represented in our membership.

Mr. GIBSON: There is nothing in your constitution which would preclude a co-operative of British Columbia from belonging to the Fisheries Council, is there?

The WITNESS: No, sir.

Mr. MACLEAN (*Queens*): How long have the east coast co-operatives been members?

The WITNESS: From the inception of the council. You will appreciate that the council started operations in 1945. There was a period of time, perhaps a year or 15 months, that it took to contact all the associations across Canada, to negotiate and to bring about the organization which we now have of 15 regional associations, which comprise all the associations in Canada, that is fisheries associations, inland, west coast and east coast, with the exception of the co-operatives on the west coast, which are not included. The Fisheries Council, you will appreciate, has no direct membership of member companies, but is purely a council made up of regional associations.

The CHAIRMAN: I presume there are no other questions, gentlemen. Thank you very much, Mr. O'Brien.

**Mr. Stewart Bates, Deputy Minister of Fisheries, called:**

The CHAIRMAN: Mr. Goode, I think you had some questions to ask Mr. Bates.

*By Mr. Goode:*

Q. Mr. Bates, you said a while ago, during Mr. O'Brien's questioning, that there were discussions with the fishermen before you went to Tokyo. You also

intimated on the one side, as I take it, there was complete agreement as far as these negotiations with the fishermen were concerned. Did they ever agree that the treaty was a good one for the fishermen. Did they ever agree, the other bodies that you met with before you went to Tokyo, that this treaty would serve their purposes? Did the fishermen agree to certain parts of the treaty and disagree with other parts?—A. Well, sir, the problem of protection of fisheries on the high seas is quite a complex one; it involves many issues, some of which the committee has already seen—

Mr. GOODE: I do not want to interrupt, Mr. Chairman, but I cannot hear a thing.

The CHAIRMAN: Order, gentlemen.

The WITNESS: The consideration of this treaty was in itself a complex matter. We met the industry several times before the delegation left, and by industry I mean the group comprising the Fisheries Council of Canada, the United Fishermen and Allied Workers' Union, the Co-operatives, the Vessel Owners' Association, and the Native Brotherhoods. These five groups comprise industry from the department's point of view. We sat down with that group on several occasions between May of last year and September. The group had no single view as to the best kind of treaty. The fishermen in particular suggested right from the beginning that we should have a simple bilateral treaty with Japan, a treaty which would take the form of each agreeing to stay off the other one's coasts. I have already indicated to this parliamentary committee that such a view was not realistic. We knew Japan would not go for the zoning of the high seas, that is, divide the ocean into two, for reasons I have already explained. We knew, also, that Japan would not, as a sovereign nation, agree to a bilateral treaty staying off each other's shores; therefore, we could not follow that line of advice. The other groups of industry had variations of opinions, some close to the fishermen's groups, others closer to our own. In other words, when we left for Japan there was no complete unanimity on the part of the fishing industry as a whole as to the kind of treaty we should present. When we did leave we had the agreement of the Fisheries Council of Canada on this particular type of convention. We did not have the agreement of the United Fishermen and Allied Workers' Union, and the reason for that they will no doubt present to the committee tomorrow or at some later date.

Q. What personnel comprised the representation from the Allied Workers' Union?—A. Speaking of the meetings as a whole, there were a series of these. I think Mr. Homer Stevens and Mr. Rigby were present at almost all of these meetings. From time to time they were assisted by Mr. Alec Gordon. I cannot recall, sir, any additional names.

Q. It would be the executive of the union?—A. The executive of the union, that is right, sir.

The CHAIRMAN: Are there any further questions, gentlemen, that you wish to address to Mr. Bates or to Mr. Ozere?

I want to say that we have a letter from Mr. Homer Stevens who has advised that he will arrive in Ottawa this afternoon and that he will be available to appear before the committee tomorrow, or on Thursday. As you have already accepted the decision of your subcommittee, we are to meet again tomorrow at four o'clock, at which time we shall hear Mr. Homer Stevens, delegate from the United Fishermen and Allied Workers' Union.

Are there any other questions, gentlemen, before we adjourn?

I might say, gentlemen, that we are going to try to get a larger room for the meeting tomorrow afternoon. I would suggest with regard to the maps

that possibly you might put your names on them and then if you do not wish to take them with you the clerk could collect them and they would be distributed again at the meeting here tomorrow afternoon or in whatever other room we decide to hold the meeting.

If there is no further discussion a motion to adjourn will be in order.

The committee adjourned until 4 o'clock p.m. tomorrow, Wednesday, May 28.

—The committee adjourned.

## EVIDENCE

MAY 28, 1952.

4.00 p.m.

The CHAIRMAN: Gentlemen, we have a quorum. The maps have been distributed to members of the committee and the meeting will come to order. Most of the members have received briefs and others will be distributed now to those who have not yet received copies.

I will ask Mr. Homer Stevens, delegate of the United Fishermen & Allied Workers' Union of British Columbia, to come forward and address the committee.

**Mr. Homer Stevens, Secretary-Treasurer, United Fishermen & Allied Workers' Union, called:**

Mr. Chairman and Gentlemen of the Standing Committee:

I am very glad to be in Ottawa and to have this opportunity of presenting the argument against the proposed tripartite fisheries treaty for the North Pacific ocean between the United States, Japan and our own country.

I am particularly glad that I am presenting our case directly to a Committee of the House of Commons, the supreme governing body of our country. I regret that the delegation of those who have come here to oppose the treaty is small. That is not our fault.

We make no apologies for the fact that the financial resources at the disposal of the organizations that sent me are not such as to make possible the larger and fully representative delegation we wished to send and which the importance of the issue merits. I ask the members of the committee not to be deceived by the fact that the fishermen's delegation is small in numbers.

In what I am to say, I speak for the fishermen of British Columbia and for their organizations. I speak for the trade unionists of Canada, who by their resolutions and letters have shown their agreement with the viewpoint we are presenting to this committee. The Trades and Labour Congress of Canada representing 497,300 members, to which we are affiliated, in their annual brief to the Cabinet at Ottawa on March 26, 1952 confirmed the national importance of the issue we wish to place squarely before this committee.

I am confident too that I speak for the majority of the people of B.C. and that if a plebiscite were taken in our province as to whether or not parliament should ratify the proposed tripartite fisheries pact for the North Pacific ocean, there would be an overwhelming majority vote against ratification.

As to the situation in eastern and maritime provinces, I cannot speak with the authority of experience but I do not doubt that after an opportunity to place all the facts and the arguments involved in this issue before all the people of these provinces had been provided, there would be majority support for our contention that to ratify this treaty is not in the national interest.

### *Some Previous Documents Listed*

The attitude of the fishermen and their organizations to the proposed tripartite treaty have been expressed in the course of the past year in many documents. Most of these have been brought to the attention at various times of the members of Parliament from B.C. and all of them have been forwarded to the Department of Fisheries and other appropriate government departments.

For the benefit of all the members of the committee, I wish to list some of the more important of these documents.

<sup>1</sup>May 11, 1951—Memorandum Re Japanese Treaty and North East Pacific Fisheries (Appendix 1).

## APPENDIX 1

## RE: JAPANESE TREATY AND NORTH-EAST PACIFIC FISHERIES

The following groups met today in the chief supervisor's office, representing the whole British Columbia fishing industry. Groups present were:

Salmon Cannery Operating Committee  
Fishing Vessel Owners' Ass'n of B.C.  
Native Brotherhood of B.C.  
Fishermen's Co-operative Federation  
United Fishermen & Allied Workers' Union

These groups have a unanimous view on the attitude that should be taken by the government of Canada in considering the Japanese Treaty as it affects our Pacific coast fisheries. The groups respectfully submit this view to the Honourable R. W. Mayhew, Minister of Fisheries, for his information and use in discussions with our government, along with that of the United States.

The Canadian fishing industry would ask the Minister of fisheries to refer to the exchange of letters made in Tokyo on the 9th February, 1951, between Mr. Dulles, the American Ambassador, and Mr. Yoshida, the Prime Minister of Japan, on the subject of Pacific coast fisheries. We do not believe that this exchange of views provides adequate protection for our fishing industry, insofar as it may imply an invitation to the Japanese to enter the fisheries off our coasts. Any peace treaty clauses based on similar ideas would likewise provide inadequate protection to our fisheries.

Before the war Canadians exploited no fisheries adjacent to the Japanese coast, nor did the Japanese exploit any of the fisheries adjacent to our coasts. Our government will, therefore, impose no hardship on the Japanese people if it works towards preservation of this condition in the post-war period.

We urge the government of Canada to preserve the Canadian interest in these fisheries—which the people of Canada have maintained by regulation, conservation and development, and by bilateral treaties with the United States in some cases. If exclusion of Japanese fishermen from these fisheries cannot be provided for in the peace treaties or in a protocol or concurrent document, it is doubtful if it can be achieved by any later fisheries treaty with Japan after she has regained her sovereignty.

We, therefore, request the government of Canada to take steps to see, that in a treaty of peace with Japan or in a protocol or other concurrent document, suitable provision be made to ensure that the Japanese fisherman stay out of the fisheries of the north-east Pacific ocean which we in some cases jointly with the United States, have conserved and developed.

This specific prohibition of Japanese fishing in the waters adjacent to our coasts may be achieved by zoning principles. We would be willing to keep out of the Japanese zone adjacent to their coasts, while they, in turn, would refrain from fishing in the zone adjacent to our coasts. In between, there would be a third zone covering the far offshore fishing for tuna and other species in which we would be willing to enter into negotiations with Japan looking towards joint conservation and development measures.

This was a statement jointly signed by the Salmon Cannery Operating Committee, the Fishing Vessel Owners' Association of B. C., the Native Brotherhood of B.C., the Fishermen's Co-operative Federation and the U.F.A.W.U. and was presented to the Department of Fisheries.

<sup>1</sup>July 27, 1951—Letter from U.F.A.W.U. to Stewart Bates, Deputy Minister. (Appendix 2)

## APPENDIX 2

JULY 27, 1951.

Mr. Stewart Bates,  
Deputy Minister of Fisheries,  
Ottawa, Ont.

Dear Sir:

Our membership was most disappointed at the recent announcement of the draft treaty, with Japan. From such reports as we have available the representations made to the department by organizations of our Pacific coast fisheries have found no reflection in the draft treaty. We would appreciate it if you could forward our office the full text of the draft treaty for our reference.

I found it necessary to express the views of our organizations in an article in the July 17 issue of "The Fisherman", a reprint of which is enclosed. The question to us seems to be where do we go from here? In our view we should be stubborn and refuse to sign a treaty that does not provide the minimum protection for our interests. Surely we can afford to be as frank as the Philippines and Burma in expressing our opposition to the treaty unless it is amended to provide such protection as has been requested.

We would draw your attention to the U.S. Department of the Interior, Fish and Wildlife Service, Market News Service, Seattle report No. 107, June 1, 1951, which reports conversations in Tokyo between Senator Warren G. Magnuson, representatives of SCAP's Natural Resources section and members of the Japanese fishing industry, at which "in particular, proposed fisheries agreements between Japan and the United States were discussed. These fisheries agreements are expected to be concluded after the general peace treaty with Japan is signed." It seems to us an intolerable situation that such agreements should be discussed in Tokyo with Japanese representatives yet not have been discussed with representatives of our west coast industry. Have these proposed agreements been submitted to our government? We would certainly like to see them before our future is settled for us.

We note too that Mr. John Gizdavich, on behalf of Columbia River Packers' Association, has taken up residence in Tokyo and that the C.R.P.A. will maintain a permanent office there. Mr. Gizdavich was for many years a superintendent of plants for that company along the Oregon coast.

Many of our members have expressed deep concern about recent imports from Japan, both of canned and frozen tuna and the effect such a trend will have, not only in obstructing the growth of a tuna fishery of our own, but also from a longer term view upon our salmon markets, both domestic and export.

I understand that the minister is presently away from Ottawa. I trust you will convey to him at the first opportunity the strength of feeling on these matters and our hope that our government will not back down from insisting that our fishery interests are fully protected before a treaty is signed.

Yours very truly,

UNITED FISHERMEN & ALLIED WORKERS' UNION,

Per: .....

*Homer Stevens, Secretary-Treasurer.*

<sup>3</sup>September 20, 1951—Letter from U.F.A.W.U. to Hon. R. W. Mayhew enclosing petitions signed by B. C. fishermen. (Appendix 3)

## APPENDIX 3

SEPTEMBER 20, 1951.

The Honourable R. W. Mayhew,  
Minister of Fisheries,  
Ottawa, Ontario.

Dear Mr. Mayhew:

I am enclosing herewith petitions received in this office and addressed to the federal government expressing the opposition of the petitioners to the signing by Canada of any peace treaty with Japan that does not contain full protection for our fisheries. On a rough count there are I believe, 819 signatures on the enclosed petitions. Other petitions may have been sent directly to your office or to other cabinet ministers or members of parliament.

The attitude of this organization to the treaty as it affects the fisheries has been made plain through appropriate channels at various times. Whilst fully aware of the strength of feeling of our membership, our officers did not believe that there was sufficient time or opportunity or necessity in the middle of the fishing season to circulate a petition to inform the Department of an attitude which we felt at that time was shared by our government.

As the enclosed sheets show, the first petition was written out by a fisherman on the Fraser river and proved so spontaneously popular that in various other localities petitions were started and finally on the very eve of the San Francisco conference, this office began to receive letters from various points along the coast asking for petitions.

I sincerely hope that it is appreciated that under these circumstances the views of those whose signatures are appended are wholeheartedly shared by the overwhelming majority of fishermen who had no opportunity to express themselves in any way before the treaty was signed.

I regret that I am placed in the somewhat anomalous position of forwarding these petitions to your office when the treaty is already signed, but that is not our fault.

As an individual I might hope that your views of the effect of the treaty prove more justified than the fears of our fishermen, but as secretary of this organization I must state:

(1) The fishermen opposed the signing of a treaty which did not give our fisheries the protection which we consider we were entitled to receive;

(2) We hope that in the absence of such guarantees the present treaty is not ratified;

(3) If the United States was able to sign a military pact concurrently with the general treaty we cannot agree with the attitude that it was impossible for Canada to sign a bilateral fisheries treaty with Japan as requested by the fishermen.

This organization was established to give expression to the views of our membership as democratically determined. We have never hesitated to do that, whether or not such views are acceptable or otherwise at the time of delivery. I trust that in all further negotiations the desire of our fishermen for full guarantees against the invasion of any of the fisheries, which presently constitute the raw materials of the B.C. fishing industry, will not be disregarded.

Yours very truly,

UNITED FISHERMEN & ALLIED WORKERS' UNION,

Per: .....  
*Homer Stevens, Secretary-Treasurer.*

The attitude of our organization and of the fishermen is expressed also in the petitions that were spontaneously circulated in the middle of the fishing season soon after the first announcement of the San Francisco conference, in the postcards, thousands of which were signed and mailed to M.P.s in November and in various articles and statements that appeared in the "Fisherman" and that are available for all members of the committee.

The purpose of this brief is not to repeat the extensive background material contained in these documents but to present, as concisely as possible, what the fishermen and their organizations ask of this committee, to state the justification for our requests and to answer objections and, in some instances, misrepresentation that have been advanced to justify the treaty which we oppose.

#### *What The Fishermen Ask*

We ask *firstly* that action be taken to proclaim, establish and uphold a Canadian doctrine of territorial waters for our Pacific offshore fisheries in harmony with our national interests and consistent with modern concepts of proper protection of coastal fisheries under international law.

We therefore ask this committee to recommend to the House of Commons

- (a) the proclamation by Canada in legal form to all countries of the boundaries of our territorial waters on the Pacific coast.
  - (i) This proclamation to be based on the Norwegian method of establishing base lines from which territorial waters are measured, as approved by the recent decision of the International Court at The Hague;
  - (ii) The width of the belt of territorial waters from the base lines to be proclaimed as Canadian waters for purposes of fishery protection to be not less than nine (9) miles (the Mexican limit) or more than the extent of the Continental shelf adjacent to our shores.
- (b) To the extent that U.S. fishing vessels have in the past exploited the resources of portions of these Canadian territorial waters, no change in the status quo will be instituted for such vessels, except by mutual consent and agreement between the governments of Canada and the U.S.
  - (i) Where treaties between Canada and the U.S. provide for joint conservation and regulation of fishery resources (e.g. halibut, sockeye salmon) in certain of these waters, such treaties will remain in full force and effect.
  - (ii) Where no treaty or other agreement exists between Canada and the U.S. for the conservation and regulation of any fishery resource in these waters, Canada to reserve the right to enforce against U.S. fishing vessels any regulation or order in the interest of conservation which is applied to Canadian fishermen.
- (c) The right of any state to proceed in the same manner to determine the extent of its territorial waters in the interest of conservation of fishery resources upon which its population is dependent to be recognized by Canada.

*Secondly*, we ask that this committee recommend to the House of Commons that no action be taken to ratify the proposed tripartite fisheries treaty between Canada, the United States and Japan.

#### *Reasons for Canadian Proclamation As Proposed*

We take the position that no country has the right as a matter of international law to deplete the limited resources of any of our Pacific coastal fisheries provided only they stay outside a 3 mile limit from our coasts.

The view stated by the Hon. R. W. Mayhew in the House on March 11 that "Japan or any other nation that cares to, may fish outside the three mile limit of our coast or the coast line of any other country" is not correct in fact for other countries and should not be accepted as permissible for our own.

To quote an expert\* on the subject:

State practice seems to the writer most illuminating. At the outset it is clear that, as the House Codification Conference made obvious to all the world, there is no such thing as a universally recognized three-mile rule. To be sure, there are many states, like Belgium, Brazil, Chile, Denmark, Ecuador, Egypt, Estonia, Germany, Great Britain and the Dominions, Iceland, Japan, Latvia, the Netherlands, Poland, the United States and Venezuela, which generally speaking adhere to the three-mile rule. On the other hand, there are likewise many other nations which do not adhere at all to this principle, or do so only to a very limited extent, such as Argentina, Colombia, Cuba, Finland, France, Greece, Honduras, Italy, Mexico, Norway, Peru, Portugal, Rumania, Russia, Spain, Sweden, Turkey, Uruguay and Yugoslavia. It is also important to note that some nations, as for instance, Ecuador, have introduced separate limits for their territorial waters at a greater distance than the ordinary three miles from their coasts for the special purposes of fisheries.

Moreover, there is not a single nation which has always and for all purposes adhered to the three-mile rule. So much depends on the balance of interests for the individual power! Nothing proves that more conclusively than the attitude of Great Britain herself . . . . .

One cannot look realistically at state practice without seeing that reasons of policy are the only factors which dictate the position of a nation on this question and that the reasons depend upon the particular interests of the nation concerned. These reasons frequently possess such a complicated and interrelated structure that any assertion of a principle which may be beneficial at the moment for one purpose might later prove to be detrimental for another. Great Britain's attitude is again the best evidence on this phase of the problem.\*

The same writer declares:

What, then, is the solution? In the opinion of the writer, the answer to this question can be found only in the application of international law as a means of adjustment of the various national interests in the spirit of a community of nations. On the one hand, there exists no mechanical three-mile rule which, regardless of the interests involved, is applicable under all circumstances and for all purposes. On the other hand, there cannot be complete anarchy. Therefore, if it is to be assumed justly that coastal fishing grounds, owing to their primordial importance for coastal states and owing to the very imminent danger of their complete destruction resulting from the employment of piratical techniques by distant nations, can be adequately preserved only by control and exclusive exploitation by the coastal state, international law must and does recognize the right to such control and exploitation by the coastal state, unless the vested, long standing rights of other nations are thereby infringed. This seems to be the only way in which important food supplies for mankind can be preserved, and, unless international law is to be regarded as a senseless and dead body of rules, a reasonable claim to coastal fisheries by the coastal state for conservation purposes is no breach, but fully in accord with international law.\*\*

\*S. A. Riesenfeld: *Protection of Coastal Fisheries Under International Law*, pp. 280-281 (Carnegie Endowment for International Peace, Division of International Law, Monograph No. 5, Published by the Endowment, Washington, D.C., 1942).

\*\*Ibid p. 282.

We therefore object to any statement, and we ask this committee in its recommendations to the House of Commons to sustain our objection, that the acceptance of the 3 mile limit for fishery purposes on our Pacific coast is imposed upon us as a result of international law.

To quote another expert\*\* on the same subject:

Let me repeat for emphasis that this is not a matter of external compulsion of law—of legal obligation. It is a matter purely of policy. The Anglo-American doctrine of territorial waters is Anglo-American propaganda. It is not revealed and generally acclaimed truth. Since the doctrine is self-imposed, the choice of continued adherence or of modification lies with our government and should be directed in accordance with the nation's interest. Of course our legal and diplomatic history will cause some embarrassment in charting progress and some difficulty in attaining a happy conclusion. There is first the matter of consistency. Inveterate consistency is a logical vice. It may be a jewel, but often it is inappropriately and extravagantly displayed . . . . Of course we should confess frankly a change of opinion with respect to jurisdiction over coastal fisheries. There should be a minimum of embarrassment in doing so, since in a world of rapid change this one accords with justice and the purposes of international law.\*\*

Mr. Mayhew's statement can have meaning therefore not as a statement either of fact or of law but only as a statement of government policy and it is this policy that we respectfully ask this committee to recommend be changed in accord with the national interest.

This request is not one that we make for the first time.

On September 28, 1945 President Truman by proclamation issued a statement of policy of the United States with respect to coastal fisheries in certain areas of the high seas which stated in part:

In view of the pressing need for conservation and protection of fishery resources, the Government of the United States regards it as proper to establish conservation zones in those areas of the high seas contiguous to the coasts of the United States wherein fishing activities have been or in the future may be developed and maintained on a substantial scale. Where such activities have been or shall hereafter be developed and maintained by its nationals alone, the United States regards it as proper to establish explicitly bounded conservation zones in which fishing activities shall be subject to the regulation and control of the United States. Where such activities have been or shall hereafter be legitimately developed and maintained jointly by nationals of the United States and nationals of other States, explicitly bounded conservation zones may be established under agreements between the United States and such other States; and all fishing activities in such zones shall be subject to regulation and control as provided in such agreements. The right of any state to establish conservation zones off its shores in accordance with the above principles is conceded, provided that corresponding recognition is given to any fishing interests of nationals of the United States which may exist in such areas. The character as high seas of the areas in which such conservation zones are established and the right to their free and unimpeded navigation are in no way thus affected.

*By Mr. Stick:*

Q. May I ask a question? What about the three mile limit. Does that contravene the international three mile limit which was laid down by the

\*\*Joseph Walter Bingham: Report on International Law of Pacific Coastal Fisheries, p. 42.

Hague court some years ago?—A. I think if the honourable member would care to examine the book by Mr. Bingham or that by Mr. Riesenfeld he will find there are many examples where the three mile limit is not yet considered to be international law.

Q. It was handed down as international law by The Hague court many years ago?—A. Another example of that is the fact that The Hague tribunal recently recognized the decision of Norway as being in accordance with their national interests and correctly in accordance with international law. That was the extension of her limit to four miles out from a base line.

In March 1946, the annual convention of our organization passed the following resolution which was forwarded to Ottawa:

Subject: *President Truman's Proclamation*

WHEREAS: President Truman has by proclamation announced that waters beyond the 3 mile limit off the coast of the United States will hereafter be subject to regulation and control of the United States for fishing purposes, except where agreement is made with other States, for joint regulation and control; and

WHEREAS: Mexico has issued a similar proclamation; and

WHEREAS: Canada has announced no statement of policy on a matter of great concern to Canadian fishermen;

Therefore be it resolved: That this convention of the U.F.A.W.U. ask the Canadian Government to proclaim a similar assumption of responsibility of regulation and control of our offshore fisheries; and

Be it further resolved: That we ask the Canadian government to proceed by immediate negotiation and discussion with the United States to define those zones in which Canada alone is responsible for regulation and control of fishing and those zones which Canada and the United States by treaty agreements, jointly undertake to regulate.

On July 4, 1947, the Prime Minister of Canada who was then Secretary of State for External Affairs, referring to the terms of the Truman proclamation on fisheries, stated in parliament that the general policy of the Canadian government was in accord with that which was expressed by the President of the United States. Pending, however, further clarification of United States policy, the issuing of a formal proclamation by the Canadian government was deferred.

Whilst President Truman's proclamation of 1945 shows both the justification and the possibility of governmental action to protect coastal fisheries, there is no justification for deferring action required in our national interest upon the clarification of the policy of other countries with interests at variance with our own.

Since our proposal involves no change except by mutual consent and agreement in respect to the United States, the only country at present with certain historical interests in the fishing waters affected by such a Canadian proclamation, there is no reasonable basis for serious objection by the United States government to such action by Canada. And surely it cannot be maintained that Canada may not do what many countries in the Pacific, including Mexico and even Panama, have done in proclaiming and enforcing jurisdiction beyond the 3 mile limit in their coastal waters.

Precisely because historically no other country but the United States has up to the present fished off our Pacific coast, such a Canadian proclamation is essential without delay. To wait for claims by other countries to be historically established is to abandon our national interest. Such abandonment, as we have shown, cannot be justified by reference to international law and should not be permitted by the House as a matter of governmental policy.

### *Why the Treaty should not be Ratified*

Our first objection to ratification of the proposed treaty is precisely that it is based on the acknowledgment by Canada that Japanese vessels which have never before participated in our coastal offshore fisheries have a right to do so in the future.

We oppose this treaty because if it is signed we will have recognized that Japan and every other country in the world have the *right* to bring their fishing vessels within 3 miles of our Pacific Coasts and into Hecate Straits to deplete fishery resources which we declare belong to Canada.

At New Westminster, on February 5, speaking to a meeting of fishermen, Mr. E. T. Applewhaite, M.P., who was a member of the Canadian delegation at Tokyo asked whether Canadian territorial waters had been defined in the course of the Tokyo talks, stated: "It was tacitly understood at the conference that territorial waters were those within the three-mile limit but there was no agreement as to what they actually were." Asked the further question as to whether there was anything in the Treaty which prevented Japanese vessels from fishing in B.C. coastal waters or in Hecate Strait provided they remained three miles offshore, he replied that the Japanese would be free to fish in Hecate Strait for anything except salmon, halibut and herring but he did not think it would be economically practical to come that far for cheaper types of fish.

By signing this treaty, we, for the first time, officially acknowledge that Japan has a *right* to send its vessels 6,000 miles from her shores to fish off ours. Incidentally, that should be more like 4,000 miles, the actual distance between Yokohama and Vancouver. And of course, in acknowledging that right for Japan we cannot deny it to any other country.

There need be no doubt that, once the treaty is ratified, this "right", gratuitously offered by the treaty, will be exercised.

We are constantly told that since Japan under the treaty agrees to voluntarily abstain from fishing salmon, halibut and herring it will be economically unsound to send fishing vessels for other fish. Thus, on March 18, 1952 the Hon. Tom Reid told the Senate:

I doubt very much, and no one expects, that Japanese boats will travel five or six thousand miles into eastern Pacific waters simply for crabs and sole, because it was the salmon which attracted Japanese fishermen to Bristol Bay.

Yet a week earlier, on March 10, 1952, Japanese cabinet minister Hirokawa in an announcement in Tokyo had already stated "crab fishing in the North Pacific seas *before ratification* of the fisheries pact would be *disadvantageous to the interests of Japan* and would create antagonism from American fisheries interests."

It is clear then that if the treaty is ratified Japanese vessels intend as a matter of right to fish for crabs. In 1936, they fished for cod in Bristol Bay. Moreover, Japanese mother ships presently fish for various species, including cod and bottom fish, at distances over 6,000 miles from home ports.

We ask this Committee to agree with us that it is not to the interest of Canada to ratify this treaty in order then to discover, after we are bound by our signature to a treaty, how unsound are all the predictions and promises that Japanese fishing vessels will refrain from fishing off our coasts.

Why Senator Reid should now entertain such unfounded expectations is indeed difficult for us to understand because he himself drew to the attention of the Senate, on February 15, 1951, a quite different picture, when he said:

I have before me an account of the Pacific Fisheries Conference which was held in San Francisco early in November last. Mr. Susumu Nikaido, a member of the Japanese Diet and of its Fisheries Committee, and Mr. Tahei Liyama, former chief of the Fisheries Agency of the

Japanese Government, together with Mr. Kenjiro Chikaraishi, Secretary of the Foreign Office of Japan, had a discussion with leading American representatives of the Pacific Coast fishing industry. The attention of Mr. Nikaido was called to the fact that *when the MacArthur Fisheries Mission visited Japan last year the heads of the leading ocean fishing companies of Japan had all admitted a desire to enter the coastal fisheries of the United States and Canada at the earliest permissible opportunity, and Mr. Liyama, upon being interrogated as to whether or not this was correct, admitted that it was.*

If indeed Japan does not intend to send any fishing vessels to our coasts, there would be no objection on her part to a treaty or other simple undertaking not to do so. There is no such obligation in the treaty now before this Committee.

It will be argued that if we accept the view that Japan and other countries have no right to send vessels to our Pacific coastal fisheries, then unless Japan and other countries accept that view, we have no protection.

The deputy minister, Mr. Stewart Bates, has stated: "In recent years, some countries on the Pacific made such 'claims' only to be told that other nations would not respect them. How do you enforce such a claim if other nations will not agree? You either back down or fight!" \*

We suggest that there is no need to do either. What we would do is to seize the vessel and bring the crew to trial before a Canadian court. Is there any country in the world that would send warships to compel us to permit their fishing vessels to fish in waters in which they have, as yet, no semblance of any historical claim? If it is suggested that Japan do so, that would only be additional justification for the insistence that she be not permitted to re-arm.

Suppose such a dispute were submitted to the International Court at The Hague. Upon what basis could any arbitration award support the intrusion into our coastal fisheries of countries which have no prior historic right in these waters?

Iceland, on March 19 of this year, announced that its Ministry of Industries had issued regulations effective May 15 for adoption of a "base line" system of defining territorial waters similar to that of Norway and for extension of Icelandic territorial waters from the previous three miles from the coast to four miles from the "base lines". The effect of this regulation is to exclude British fishing vessels from large areas where they had been accustomed to fish for more than half a century and from which British vessels had been taking about 1,500,000 cwt. of fish annually. Whatever the final outcome of this dispute, there is no indication that Iceland intends to either back down or fight.

There is no justification then for raising such a bogey in regards to our Pacific coastal fisheries where the historical background supports our claim. If, however, we ratify this treaty, we abandon for the future our justification for such a claim for we cannot either morally or legally sign such a treaty with Japan and then proclaim a Canadian doctrine contrary to its terms. And moreover, ratification of this treaty, if permitted, will form part of the historical record that would be considered by an International tribunal even if a dispute arose years later when the treaty itself perhaps is no longer in effect.

What does Canada receive in return for having recognized by treaty, and therefore prejudicing for all future negotiations, the non-existent right of other countries to rob our offshore Pacific fisheries of resources upon which our fishing and allied B.C. industries depend?

We receive the expressed willingness by Japan to voluntarily "abstain" from fishing salmon, herring and halibut off our coasts.

\* Paper read to Fifth Annual B.C. Resources Conference, Victoria, Feb. 27-29, 1952.

For how long is Japan committed to abstain? For a minimum of five years.

What happens after five years? They have the right to ask the International Commission consisting of U.S., Canada and Japan to agree there is no longer any need for "abstention". Can Canada then be outvoted in this Commission? No, because for the duration of the treaty such a decision to permit Japan to fish these three protected species must be unanimous. In other words, Canada will have a veto for this period of time.

But if dissatisfied with Canada's exercise of the veto, Japan can give one year's notice to annul the treaty which is signed for a minimum period of 10 years.

It may be claimed that it is most unlikely that Japan would permit this treaty to lapse after 10 years. We insist that there is no justification for ratifying the treaty in order to find out.

For the fact remains that if this treaty is ratified then after 9 years Japan may give one year's notice of termination for any reason whatsoever or for no stated reason. If that happens whether we are engaged in conservation or scientific management of any species of fish matters not at all. We will, by having signed this treaty, have agreed that Japan has a right to fish off our Pacific coasts and therefore an equal right no longer to abstain from fishing halibut, salmon and herring in these waters when the treaty expires.

For by signing this treaty, we not only grant Japan a non-existent right to participate in our coastal fisheries. We abandon our own right to control the salmon, halibut and herring fisheries in these waters and replace the effective protection of these fisheries as a matter of right by the unreliable protection of voluntary abstention by Japan for a 10-year period. We accept as a favour or concession what is ours by right. The threat will always be present that the favour might not be renewed except in return for reciprocal favours on matters having no bearing whatsoever on conservation. How can one doubt that when, even before the proposed treaty is ratified, we read in Japanese publications gentle hints that we are not grateful enough for the supposed favour we have been granted. Thus N. Tatsukawa, president of the International Marine Products Co. writes in the "Nippon Times" with reference to the proposed American duty on Japanese tuna:

It is regrettable that hasty action has been taken to get this new tariff legislation through Congress. The valuable results of the huge visible and invisible investments the U.S. taxpayers have so generously made in Japan in the past few years to make this land self-supporting and therefore a strong ally of America in the Orient will be greatly diminished if the tariff bill goes through. This is even truer in the face of the fact that quite recently Japanese fishermen accepted the American and Canadian proposal to refrain from salmon fishing in the northern Pacific, and therefore feel that they were assured a continuation of established trade on tuna caught in nearby and southern water.\*

Can those who favour this treaty provide assurance that it will be renewed after 10 years? Can they explain why Japan first proposed a treaty for 5 years, opposed a 15-year treaty and compromised on 10 years? Can they provide assurance that the price for renewal may not be additional concessions such as removal of Canadian tariffs on fishery or other products?

Surely these and many other questions need to be asked. And such ill-founded hopes, expectations and predictions as we have had to date are not acceptable by our fishermen as satisfactory answers.

\* Quoted from Fisheries News Letter, Sydney, Australia, March, 1952.

### *Objections to the Treaty Summarised*

We may summarise the main objections to the proposed treaty under the following heads:

1. It acknowledges the right of Japanese vessels to fish in our coastal waters when there is no compulsion under international law to do so and no background of historic custom in these waters to necessitate any negotiation on the matter.

2. It accepts as a supposed favour what should be proclaimed as a Canadian right, namely abstention by Japan from fishing for salmon, halibut and herring in our coastal waters. But on this basis the supposed protection is illusory because there is no assurance of its continuation beyond 10 years and every likelihood of future demands for further concessions for every temporary renewal.

3. It immediately invites fishing in our coastal waters by Japanese vessels for every species of fish other than salmon, halibut and herring, including flat-fish, cod, rockfish, tuna, shellfish (shrimps and crabs), dogfish, whales and sharks.

4. There is every reason, if the treaty is ratified, to anticipate acceptance of the invitation because a theoretical right becomes assured only by its exercise; because under the treaty no party can be asked to waive its right to fish a resource if it is exploiting that resource itself on a substantial scale; and because restriction on Japanese fishing vessels by other countries in the Pacific will intensify the pressure on waters not previously frequented.

5. Any addition to the list of species on the "abstention" list for any signatory to the treaty is not to be expected because each signatory has a veto in this regard.

6. There is no definition of Canadian territorial waters and no recognition as to the status of Hecate Strait as Canadian territorial waters in the treaty. Japan under the treaty may therefore send trawlers into Hecate Strait and claim on the basis of the treaty equal rights with the United States.

7. Under the treaty Canada agrees to abstain from fishing salmon in the Bering Sea but the United States is not bound to abstain from any area or species.

8. There is no justification for any of the glowing phrases that this treaty will usher in a new era of international co-operation in the Pacific fisheries. On the contrary

(a) no other Pacific countries were consulted or invited to participate in the drafting of the treaty;

(b) there is no reason why other countries in the Pacific should wish to adhere to this treaty and in any case no provision in the treaty itself for other countries to become participants in the proposed International North Pacific Fisheries Commission. Resolution III at the Conference states merely that "the Conference recommends that, in negotiating with other Governments in respect to problems similar to those covered by this Convention, the contracting parties shall give full consideration to the spirit and intent of this Convention".

9. The consequence of this situation is that ratification of this treaty by Canada is not only contrary to our national interest but cuts us off from other countries in the Pacific whose condition and interests are more in harmony with our own.

10. The really unique feature of this proposed treaty is that Japan would become a member of a tripartite Fisheries Commission empowered to investigate fisheries in our coastal waters in which she has never previously participated.

There is no justification for this novelty and every reason to anticipate that such investigation will provide valuable information for future participation.

To regulate our Fraser River pink runs or to conserve bottom fish off our West Coast, we would need, not merely to negotiate directly with the United States but await investigation and recommendation by the new International Commission, with Japan as the third member.

The likelihood of an effective program of conservation prior to the depletion of any resource is lessened and not enhanced by such a situation.

Mr. APPLEWHAITE: Mr. Chairman, I hate to interrupt, but I wish to speak on a point of order.

The CHAIRMAN: Mr. Applewhaite, on a point of order.

Mr. APPLEWHAITE: We are all glad to hear from our witness today everything in criticism or matters that he wishes to bring up in connection with the Pacific Treaty and with the shortcomings, if any, on the part of those who negotiate it. I have only had an opportunity to glance briefly through this brief, but the next section has been well announced by the three lines which Mr. Stevens has read. It is going to contain a direct rebuttal of a speech made in the Senate by a senator at this session of the House, and I do not want to see this particular committee get itself into any worse difficulties than can be helped. I think it is not using too strong language to state that if the next few pages go on the record they will constitute a disparagement of a speech made in the Senate by a senator. I am not going to quote any more authorities than I have to, but I do wish to refer to a few. Citation 534 of Beauchesne:

Committees are regarded as portions of the House and are governed for the most part in their proceedings by the same rules which prevail in the House.

I do not think there would be any serious disagreement with the claim that it would not be possible for anyone on the floor of the House of Commons to undertake to disparage a speech made by a senator in the Senate. It is on that account, I think, that we have adopted that rather, it seems to me, silly practice of never referring to the Senate as such but calling it another place in order that we can never be accused of having criticized it as the Senate. Another citation, 243:

Allusion to debates in the other House are out of order, and there are few orders more important than this for the conduct of debate and for observing courtesy between Houses.

Citation 246 says:

Besides the prohibitions contained in Standing Order 41, it has been sanctioned by usage both in England and in Canada, that a member, while speaking, must not: (b) refer to any debate in the Senate, but he may refer to the official printed records of the upper House, though they have not been formally communicated to the lower House;

Citation 264:

It is out of order to read extracts in a debate if they: (e) allude to debates in the other House of Parliament.

This committee of the House of Commons is investigating the proposed treaty, and I do not think it lies within the powers of this committee to accept what I can only regard, by putting it my way, as criticism or disparagement of a speech made by an hon. senator in the chamber of the Senate.

The CHAIRMAN: Is there any further discussion on the point of order which has been raised by Mr. Applewhaite?

Hon. Mr. REID: May I say one word, Mr. Chairman?

The CHAIRMAN: No, my ruling is that you are not allowed, Senator Reid, at this time to make any discussion on this subject.

Hon. Mr. REID: If he mentions my name I am going to.

The CHAIRMAN: Order. As regards the point of order raised by Mr. Applewhaite: Is there any other member of this committee who wishes to speak on the point of order raised?

Mr. GOODE: As a new member of the House of Commons and of this committee, I am not in the same position as some to say whether Mr. Stevens is correct or not, but I would think as a matter of courtesy, without even referring to Beauchesne, that what Senator Reid said in the Senate is his own business and the business of the Senate. This is a committee of the House of Commons and it is my opinion we have not the right to criticize what the senator said in that august body.

The CHAIRMAN: Is there any other member of the committee who wishes to make an observation?

Gentlemen, as regards the point of order which has been raised by Mr. Applewhaite, I consider that it is a point well taken, and according to the citations which have already been raised and read by Mr. Applewhaite, I concur. It is not my intention to permit anything which may take place in this committee to be taken as a precedent which might conflict with the rules of order as laid down for the House of Commons and also for the committees. In this instance I would like to quote Beauchesne's Parliamentary Rules and Forms, second edition, citation 602, page 181:

Committees are regarded as portions of the House and are limited in their enquiries by the extent of the authority given to them, but governed for the most part in their proceedings by the same rules which prevail in the House.

I may say that I had the opportunity shortly before noon today to go over this brief, which I received just after 11 o'clock, and I spoke to the witness before the meeting this afternoon and suggested that this section, from pages 17 to 21, of his brief might be deleted from the evidence which he intended to place before the committee. However, the witness has decided to continue to read from the brief and my ruling is that this is inadmissible as evidence and also that the first three lines of this section which were read by the witness be struck from the record.

Mr. McLURE: Mr. Chairman, this information is already here, this reply to criticism. Would it not be better, if it were satisfactory to the hon. senator, to allow this to be read and to allow him to reply to it? I think we would get wonderful information that way. We would have two good witnesses then, but I would not make this request unless the hon. senator would approve of it himself. Of course we must give him a chance, if he desires.

The CHAIRMAN: The hon. member has made a statement, and while I have already made a ruling that ruling is subject to appeal to the committee, but I cannot change my ruling.

Mr. GILLIS: Mr. Chairman, I agree with the ruling of the chair for this reason. The committee is a committee of the House of Commons and we have heard the representatives of the government, the officials, the minister and so forth, and Mr. Stevens is here representing the fishermen's union and we are hearing his evidence. Now, the criticism that he makes of Senator Reid is not evidence, it is merely a controversy between his union and Senator Reid, and

what Senator Reid says in the Senate is not evidence before this committee, so I think that he would be well advised in buttressing his own case if he would eliminate the sections of the brief which deal with that controversy between his union and Senator Reid. It would be wasting the time of this committee and cluttering up the records, and, in my opinion, spoiling the case he has made for the fishermen with the direct evidence he has already presented, if we throw the committee open now to allow himself and Senator Reid to clutter up the record with a controversial argument that has no relevancy so far as this committee is concerned to the subject matter of his brief. I think he would be well advised to eliminate it and stick to the business that he is here for, that is to give direct evidence as against what the government and officials have already given, and eliminate this controversial matter altogether.

The CHAIRMAN: I want to thank the honourable member for the statement which he has made. My point in dealing with the point of order which has been raised is to protect the privileges of the honourable members of the Senate so that nothing might be allowed to go on which might impinge on their privileges.

The WITNESS: Deleting the objectionable section of the brief—

Mr. STICK: Well, what is eliminated now? Let us have it right before we begin.

The CHAIRMAN: I would suggest that the witness might begin to read on page 21. "There is another exception which is of major importance" and he might continue from there.

Mr. STICK: Where on page 21?

The CHAIRMAN: Starting "Mr. Stewart Bates—"

The WITNESS: Mr. Stewart Bates expressed somewhat more accurately when he states:

There is another exception which is of major importance to Canada. It is proviso (3) of Article IV. No country, according to this clause, can be asked to abstain from fishing where there is an intermingling of its fishing operations with some other party, and an intermingling of fish stocks. It is recognized that this applies to Canada and the United States from and including the Gulf of Alaska southwards and, therefore, no recommendation for abstention can be made by either the United States or Canada in such waters. In short, no matter what takes place in stocks or in conservation, we cannot be asked to abstain from fishing any species from and including the Gulf of Alaska southwards.

*This proviso is of the utmost significance to Canada. In that area Canadian fishermen are free to enter fisheries that they have not up till now used.\**

However, it should be pointed out that it is not because of this proviso or because of the treaty that Canadian fishermen are free to enter fisheries they have not up till now used. Without the treaty, we would be free from the Gulf of Alaska southward or northward to enter fisheries we have not hitherto used provided we stay out of the territorial waters of the United States. The treaty gives us absolutely nothing we did not have before—except additional headaches.

In the same paper, Mr. Bates, after disputing the possibility of enforcement of a claim by Canada to territorial waters beyond the three-mile limit (an argument with which we have already dealt), questions also the wisdom of such action. He writes:

But even if we could enforce such a claim, would it be wise? Canada has probably the smallest coastal area of all countries in the

\*Paper read to B.C. Resources Conference.

North Pacific, one of the smallest indeed in the whole Pacific Ocean. It is only 600 miles in a straight line between our northern and southern boundaries. If all nations bordering the Pacific made such off-shore zones, if they all agreed to possess such segments, Canada would be left with one of the smallest fishing areas in the whole Pacific basin.

But already our industry fishes outside that narrow zone, both northwards and southwards, and in the future may be expected to roam the Pacific farther. Perhaps our fishing industry too, needs a high degree of freedom of the seas, not only now but into the future.

Mr. Bates writes as if our problem and our national interest were identical with that of either the United States or Japan. That is far from being the case.

If we had sole use for fishing purposes of the 600 miles of coastal waters on the Pacific, we would have no cause for complaint and would be able to regulate this resource for our people in perpetuity.

We do not claim sole use of this resource because historically United States fishermen, our closest neighbours, have fished side by side with us for many years in our offshore waters and in theirs. We have no objection to continuing that historic practice on the basis of equality and reciprocity. On that basis, if the United States wishes to bar us from her coastal waters, we have 600 miles alone—and need no more. Otherwise, we will continue to share with the United States the much greater distance of the Pacific coast of the North American continent.

It is not in our national interest to concede the right of any other country in the world to deplete the resources upon which our growing population is now dependent, when there is no prior historical precedent for such claim.

That is why we oppose the treaty presently under consideration by this committee and why we hope that the Committee, after full investigation and consideration, will endorse our plea in the recommendations that it will place before the House of Commons.

### *Conclusion*

In conclusion, let me say that Mr. Stewart Bates is mistaken when he states: "Many of our fishermen think we own the whole Pacific Ocean".\* I have yet to meet a single fisherman suffering from that delusion.

But we think that as Canadians we share in the ownership of that portion of the ocean that washes our Pacific shores to a sufficient distance from our coast to permit effective protection of the fisheries resource to be found in these waters.

We ask nothing for ourselves that we are unwilling to concede to others. We are not anti-American or anti-Japanese or anti any other people in the world. We are pro-Canadian. We believe all nations large and small have equal rights.

We stand for peace and fraternity amongst all the nations in the Pacific, in the Atlantic and in the world. And we are certain that there is nothing in our request to this committee contrary to these principles.

Respectfully submitted,

UNITED FISHERMEN & ALLIED WORKERS' UNION.

Mr. Chairman, before sitting down I might say that on reading over the record—and I had not had an opportunity of seeing the record of previous sessions of the committee—I came across a whole number of points which I would like to have the opportunity of going into. Perhaps some of them will come out during the question period but if not—and I would like to have some

\* "Canadian-American Relations In Fisheries"—Trade News, April, 1952.

time to prepare for that since I only received the report this morning. I would like an opportunity later to deal with some of the previous evidence—if it is permissible.

The CHAIRMAN: That will be a matter for the committee to decide.

We want to thank Mr. Stevens for his submission but just before he concludes I notice that in the quotation from Mr. Bates as printed in the brief he read: "Many of our fishermen think we own—" and he interjected there the word "whole". I do not know whether you intended to do that but you made it read: "Many of our fishermen think we own the whole Pacific ocean."

The WITNESS: I think the quotation is exactly correct as originally written and not as I stated it.

The CHAIRMAN: Now, no doubt there are members of the committee who would like to ask questions of Mr. Stevens and I presume Mr. Stevens will be glad to answer questions that might be put to him. Does any member of the committee wish to address any questions to Mr. Stevens?

*By Mr. Gibson:*

Q. Just for clarification, I notice in appendix 1 you have listed five organizations as subscribing to the original letter that you wrote. Do I understand now that the other four organizations have accepted in principle this treaty and you are the only organization opposing it?—A. No, I should clarify that, perhaps. The Salmon Cannery Operating Committee is now the Fisheries Association of British Columbia, and as I see in the record here, they, as part of the Fisheries Council of Canada, have endorsed the present fisheries treaty.

So far as I know none of the other fishermen's organizations have endorsed the treaty. I do know the Fishermen's Co-operative Federation have opposed the treaty both in their federation and in the member organizations of the federation.

Q. Are you representing them here?—A. No.

Q. You are not. Do I understand, Mr. Chairman, that they have not made a submission to us?

The CHAIRMAN: There was no submission made.

Mr. GIBSON: From the Fishermen's Co-operative Federation?

The CHAIRMAN: No reply from them.

Mr. GIBSON: Do you represent the Native Brotherhood of British Columbia?

The WITNESS: No, here today I am only representing the United Fishermen & Allied Workers' Union. I think possibly some of the others may be sending written representations but I do not know. Apparently they could not afford to send delegates down here.

The CHAIRMAN: I may say in regard to that we have no replies from the Fishermen's Co-operative Association, Vancouver; the Canadian Fishing Vessel Owners' Association, Vancouver; the Prince Rupert Fishermen's Co-operative Association; and the Native Brotherhood of British Columbia.

*By Mr. Pearkes:*

Q. Might I ask a question regarding page 4 of the brief. Reference is made there to the possible base line from which might be declared the territorial waters of Canada. What in the opinion of the witness does that include? Would the recommendation be to include as territorial waters the Hecate Strait, Dixon entrance, and so forth? I wonder if he has any information on the point or whether he might indicate the areas on the map behind him. Where do they recommend the base line should run?—A. Mr. Chairman, and honourable members, I have a map with me upon which we have drawn the base line as we feel it should run.

We have proposed or drawn up a chart which we think would meet the condition we propose and we drew the base line from point to point, to include some of the small islands, right across the mouth of Queen Charlotte Sound, which would be declared as territorial waters—right up around Queen Charlotte Islands and over to West Devil Rock in Dixon entrance.

I do not know whether it is possible for all members of the committee to see the small red line which represents the three mile limit—three miles from the base line. The other line represents nine miles from the base line. As you can see it would include most of Queen Charlotte Sound, Hecate Strait, and part of Dixon entrance as being Canadian territorial waters. I might also add we have tried to get really specific information on what are now the territorial waters of Canada. We are told they are three miles and that they follow the general contours of the coast; which means fishermen could be fishing in here between Estevan Point and Cape Cook up the west coast of Vancouver Island. So long as they were three miles off the nearest land they would be considered to be on the high seas. We do not know what the position of the American fishermen who go trawling in this area off Hope Island is. At the present time the government takes the stand that as long as they stay out three miles from the nearest island they are on the high seas. We believe all this area should be defined as Canadian territorial waters. Then, if we wanted to make agreements with the United States because of their historic rights we would be free to do so.

Q. Can you point out where the international boundary is in Dixon entrance—because you have swung your three mile limit eastward to meet the international boundary?—A. The present boundary runs just out here. We have swung from the last point of land at the top of Queen Charlotte Islands over to West Devil Rock. That is something, not being a legal expert, on which I would not say we were correct. There may have to be some variation in that. We did it so that we could give you an idea of what we had in mind.

Q. In other words, you swung the line back so that it meets with the now recognized international boundary?—A. That is right.

Q. Can you say, because not all members of the committee are from the Pacific coast, what is the importance of Hecate Strait which you have mentioned frequently. Is that an extensive fishing ground?—A. Yes, very much so.

For the benefit of members of the committee not from British Columbia, this is commonly regarded as Hecate Strait. There is no exact dividing line between Hecate Strait and Queen Charlotte Sound but through this whole area there are very good fishing grounds for halibut, salmon, cod, soles, crabs, and a whole number of species. I might say this area, which includes also Queen Charlotte Sound and Hecate Strait, produces a very large percentage of the halibut which is taken. I would say that something between 12 million and 14 million pounds of halibut are landed by Canada and a similar amount by the United States which come primarily from this area.

I might also add that in 1944 and 1945 while I myself was fishing as a trawler, using an otter trawl off the west coast of Vancouver Island, most of the fisheries we pursued were through the straits of Juan de Fuca, from Point Renfrew to Ucluelet, and Estevan Point, halfway up Vancouver Island. That is the area where the main fleet of draggers, out from Seattle, Astoria, Eureka, San Francisco and so on, were operating. Since that time both the Canadian and American fleets, because of the decreasing supply, have had to move farther north or west up into the Queen Charlotte Sound and Hecate Strait.

I have not got figures for the exact poundage of flatfish, cod and so on, but they would be very considerable—particularly from the point of view of the American draggers who now, having depleted a lot of the shore line here, have had to move into this area. We have also considerable salmon fishing.

Q. Can you tell me whether there are any limits as to the type of equipment for fishing flatfish, cod, and sole in that area—in the Hecate Strait area?—A. Well, primarily the flatfish—that is sole, flounder—various species of sole—are caught by trawls. Do you want me to describe the net in detail or will “trawls” be sufficient?

Q. That is all right.—A. Cod is also considerably taken by the trawlers. They would be able to take halibut except that they are not allowed under the International Fisheries Treaty to land halibut. A lot of cod—ling cod, black cod, and so on, is also landed by what we call long liners. They take a certain amount of cod incidental to halibut fishing, and some of them take certain other fish—what they commonly refer to as scrap fishing—black cod, link cod, grey cod, and so on.

Q. If a fisherman was using a trawler or long lines for these species, would there be any danger or possibility of him catching salmon, herring, or halibut at the same time—shall we say by mistake?—A. The only species that lends itself to being caught by trawl, other than what they are normally allowed to get, are halibut. Halibut could be caught very extensively by trawlers and, as the Department of Fisheries would probably say, there have been a lot of rumors of that coming from our own boats. Salmon cannot be very easily taken by trawls—they are too fast moving a fish to be taken that way.

While herring could be taken by trawls, the net is especially designed so that the herring cannot be taken very readily by trawls designed for the taking of flatfish, cod, and sole. In other words a herring trawl must be of a smaller sized mesh to hold the herring. So, there is danger of catching halibut by trawl but not herring and salmon.

Q. By long lines?—A. Long lines can take halibut. As a matter of fact, that is the primary way of catching halibut. They would not take any amount of salmon—it would be very rare.

*By Mr. Goode:*

Q. I expect an opportunity will be given us to question Mr. Stevens again, but I would like to refer him to appendix 1, the last paragraph, where it is suggested that three zones be set up in the Pacific. Geographically, where would we arrive at those zones? Where would they end?

Secondly, how would they be governed? Who would be in control of the boundaries themselves when they were maintained?—A. On the first question we felt that Canada should proclaim a zone. We did not specify it as you note there, and this was quite early in the discussions. We should proclaim a zone where we would have the primary right and where the Japanese vessels would not fish—far enough offshore to protect all the various species of fish upon which we depend.

Q. How far?—A. We put it this way in our discussion with Mr. Bates at that time: Whether it would be 150 or 200 miles we were not prepared to define and say, but certainly far enough offshore to protect our interests. Also, we would grant Japan a similar right to proclaim a zone off her coast.

The regulation of that zone, the second part of your question, would have to be by the two nations. In other words once we had defined those zones Canada would look after the patrolling of her own zone and Japan would look after her zone. There are large areas in the Pacific which would not be affected by those zones and which we would consider as a third zone over which there could be joint control and so on.

Q. Following your argument, if this came about and if we had a zone 100 miles off the west coast of Vancouver Island, and a zone 100 miles east of the islands in Japan, how would we control zones of that kind? For instance, say

that Russia wanted to come in and fish 50 miles off the coast of Canada—which I understand they are allowed to do now. How would we control that?—A. I think we explain that in the brief.

Q. I want you to tell me?—A. What we think should be done if a vessel came out to fish within 50 miles of our coast to take salmon, herring, or halibut or any other species? They should be intercepted—if we can intercept them—and brought into Canada courts and charged.

The question comes up about protests from other nations and in such protests we would have to go before the international court for the matter to be decided. We should follow the practice that Norway followed prior to the decision in her favour. In other words, she seized the vessels first and got explanations afterwards.

Q. But you will concede that is not the way that Canada does business. If we seized a vessel 90 miles off the west coast of Vancouver Island, and supposing your idea is one which is accepted by Canada, have our courts got jurisdiction over that boat? Would we be within our rights in taking those fishermen into our courts—under international law?—A. I should think we would, providing we could show evidence that the vessel was catching fish which were vital to our economy, welfare, and our future livelihood. If we seized a vessel just because it happened to be passing through en route to one or another ports on the American continent we would not be anywhere within our rights at all.

Q. As it happens I am not a lawyer and so I ask you: Have we the right to seize vessels outside of the three mile limit, bring them into our courts? I do not know?—A. We say we should have that right—if a vessel came for example and was fishing halibut just off the three mile limit—other than a United States or Canadian vessel. I am sure some action would have to be taken by our government, otherwise the treaty we now have means nothing.

Q. Let me give you an example. If a Japanese fishing boat is fishing five miles off the west coast of Vancouver Island now, could one of our patrol boats go out and seize that vessel? Have we the right to sue that vessel in courts in Canada?—A. I am not sufficiently expert on international law to say, but I think we have the moral right—

Q. But your brief is based on international law protecting Canada in this case. Can you tell me how if that Japanese boat is seized five miles off the west coast of Vancouver Island can we successfully sue her in Canada, or would we have to bring that boat before the government of Japan?—A. Under this treaty you would have to turn it over to the government of Japan. That is one of the reasons we do not like the treaty.

Q. Has it not always been done that way?—A. No, otherwise Norway could not seize British vessels—British trawlers—four miles off her coasts in an area where there was sixty miles between points. Even though the British were protesting all the time Norway was able to seize those boats and penalize them.

Q. I do not know about Norway but if that boat is seized five miles off the coast of Vancouver Island can we successfully sue that boat or do we have to return it to Japan?—A. I say we could.

*By Mr. Pearkes:*

Q. I would like to ask one other question. On page 9 the statement is made that it is acknowledging that Japanese vessels have never participated before in coastal offshore fishing—in other words that Japanese vessels in the past have not come over to these waters to fish. Later on it is suggested that there is a fear they will do so in the future. On what is that fear based? Is there any radical change in conditions which now make you apprehensive of Japanese vessels coming to the west coast?—A. It is precisely that point that raised some of the main objections.

Japan, prior to the war, was moving into a lot of fisheries. I think anyone who wishes to get the information can get it but she was moving into the Bering sea or attempting to, and she was moving into places as far away as the Mediterranean—having plans drawn up that way. We believe those plans continue to exist.

One of the incentives under such a treaty will be that she would want to establish that right not only in theory but in practice. Secondly, Japan, as some of the members will realize, has been cut off from certain fisheries which she had prior to the war—notably the Kamchatkan peninsula in Asia. We have seen reports that the Netherlands government is trying to get some protection for their land. The Philippines are concerned about the situation, Australia is, and so forth. There will be a stronger incentive also in Japan's desire to get American dollars—in other words to get fishery products which she can export into Canada or into the United States. That will be another incentive to come into our fisheries. We believe, therefore, that there will be even a stronger impulse on Japan's part once this treaty is ratified than there was prior to the last war. There have also been examples given of the growth in population, but we do feel that this necessarily is the main point because in some of the long range fishing expeditions it is apparently not so much the question of getting food for home consumption as it is of primarily getting fish which can be exported to obtain dollars. We believe that the Japanese people are entitled to a high standard of living, and we believe that they have very considerable resources right around their own islands, according to the reports we have received, but we do not feel that her vessels should be free to come in to within three miles of our coast for any type of fish and deplete a fishery upon which our fishermen are dependent.

*By Mr. Goode:*

Q. May I ask one more question, Mr. Chairman. In the brief on page 2, Mr. Stevens said:

I am confident too that I speak for the majority of the people of British Columbia.....

How do you know that?—A. I am sorry that a plebiscite has not been taken on this treaty, because if a plebiscite had been taken I would be in a position to answer that conclusively. We made that statement because numerous, very numerous organizations passed resolutions similar to the stand that our organization has taken. We know of very few organizations or citizens' groups that have taken a stand in favour of the treaty.

Q. I would just be about as correct as you are if I said now that the majority of the people of B.C. do not support your brief. That statement would be just as true as the one you are giving to the committee?—A. I do not think it would be so true.

Q. I haven't any information on it—this is an entire assumption and has no basis in fact?—A. I refuse to agree with you on that.

Q. I do not blame you a bit.—A. We consider it a very considered statement.

Q. This statement in your brief is to the effect that the majority of the people of B.C. agree with this brief. Could you give some figures? I want to know exactly how you arrive at that statement.—A. There has been no plebiscite, so I cannot give you the figures.

Q. Then the statement is just an assumption. That is true, is it not?—A. We consider it to be a very considered opinion.

Q. I ask you the question and I am entitled to an answer, yes or no, that this is largely an assumption.—A. Mr. Chairman, do I have to answer yes or no? To me it is the same as asking if you beat your wife.

Q. No, I do not agree with you at all on that. Mr. Chairman, he makes a definite statement in his brief. He says, "I am confident that I speak for the majority of the people of B.C...." I say that I doubt that statement and that I am entitled to a straight answer as to whether it is an assumption or not.

The CHAIRMAN: I think, Mr. Goode, he has already answered that.

Mr. GOODE: What was the answer?

The CHAIRMAN: He said "that in his opinion..."

Mr. GOODE: But he does not say "in his opinion" in the brief. He says he is confident that it is so.

*By Mr. Mott:*

Q. Mr. Chairman, there is just one question that I want to ask Mr. Stevens. In regard to the base lines along the coast you are mentioning, did you take into consideration the whole country as a nation, both the Atlantic and Pacific coasts, when you say three miles off the coast? Did your organization take into consideration a separate treaty with the United States or Japan? Could you just make one treaty for the Pacific coast and another one for the Atlantic? Just to look at the map of Canada—on the Atlantic coast you see Newfoundland, which is now a province of Canada, and then the other parts of the coast along there. Why, you would practically have to go to Sable Island, 180 miles off the N.S. coast, and the whole Grand Banks would be inside a similar base line you are talking about on the Pacific. I was just wondering if you gave any consideration to facts like those?—A. Well, I do not really feel qualified to speak for the fishermen on the Atlantic coast as to what they might feel, but I imagine if such a line were drawn by the Canadian government, and enforced, that they would be very happy. I believe that there are, from what I have read about the subject, some very different problems there. For example, you have the historical tradition of 10 or more countries fishing on the Grand Banks and close to the coast. I have been reading some statements where apparently they come right up to the three-mile limit, following the general configuration of the coast. I do not think the stand we take could just be automatically applied to the east coast of Canada. In reply to your question, I might say we were not considering what effect this might have there, although I do not think it could be a harmful effect.

Q. It would also be a good treaty for the Atlantic fisheries if such a thing could happen. You also mentioned "a historical right". Has the United States not got a historical right now on the British Columbia coast? Would you consider their rights historical on the British Columbia coast?—A. Yes, we say that in our brief, on page 4,

To the extent that U.S. fishing vessels have in the past exploited the resources of portions of these Canadian territorial waters, no change in the status quo will be instituted for such vessels, except by mutual consent and agreement between the governments of Canada and the U.S.

Then we go on to elaborate that a little more completely. We have had some discussions with organizations of American fishermen. We have made our point of view clear and in some cases they do not exactly like what we say, but we have been able to retain very friendly relations on the basis that we tell them quite conclusively that something will have to be done by Canada if there cannot be international agreement to preserve the fisheries off the west coast of Vancouver Island outside the three-mile limit in the Queen Charlotte Sound, and in Hecate strait. We have been proposing controls and more controls for a number of years. We send our delegates down to meetings

held in the United States occasionally and they propose that an international body be set up with power to regulate that whole offshore fishery between Canada and the United States, recognizing our general interest there, but we feel we are not getting enough satisfaction and if we proclaim our right to control that, or if we say that any regulations drawn up for conservation which we want to apply to our fishermen can and will be applied to American fishermen in those waters, we do not think we are being unfair to the Americans. Many times we have proposed regulations, for example, for a closed season in cod, a species of fish which used to be plentiful in all the bays and inlets off the west coast of Vancouver Island. I fished there in 1941 from a trawler operating in Barclay Sound when it was no trick at all for us to catch 10 or 15 thousand pounds of ling cod in a week's time. Today any dragger fishing in that area would be very lucky if he could come away with 500 pounds in a week. The same goes for the offshore fisheries; they are being exploited in this case not only by Canadian fishermen but by Americans. When we ask our government to put a closed season outside Vancouver Island for three months on ling cod, the same as the closed season that applies on the inside, we are told it would be senseless to do that because they could not control the American boats, so the Canadian fishing boats would be tied up for three months and the Americans would be there fishing. We do not consider that proper. We think Canada should have the power to get agreement to regulate these fisheries even if it means curtailment of American vessels.

The CHAIRMAN: Mr. Stevens, I would like to ask you if you could tell the committee the number of fishermen that you represent and the number of allied workers in your union.

The WITNESS: Our total membership is approximately 8,000. They are distributed about in this way: about 48 per cent shore workers and 52 per cent fishermen. I should say shore workers and tender men in that 48 per cent, and about 52 per cent fishermen. The total number of fishermen who are members of our organization would be something in the neighbourhood of 4,400.

Mr. GIBSON: Do all the fishermen belong to your union?

The WITNESS: No, unfortunately, some of them do not. There are quite a large number who belong to some of the organizations we listed in that original statement and there are some fishermen, unfortunately, on the Pacific coast who do not belong to any organization.

Mr. STICK: What percentage of the fishermen do you represent? Have you any idea, roughly?

The WITNESS: I would say that amongst the salmon seiners approximately 80 per cent; with the exclusion of a few natives, practically all of the salmon seiners belong to our organization. Among the gill netters I would put the estimate around 65 per cent. Trollers—I would not want to venture a guess. We do not have a great number of trollers who are members of our organization, although quite a large number have indicated their desire to join up this year because of certain economic factors. Amongst the halibut fishermen out of the ports of Vancouver, Victoria, New Westminster and most of the ports with the exception of Prince Rupert, we represent close to 100 per cent of the halibut fishermen.

Mr. GOODE: I am waiting for you to put on the record the name of Steveston, which is in my riding.

The WITNESS: Oh, yes, Steveston.

The CHAIRMAN: As Mr. Stevens has expressed a desire to be heard again before this committee, might I suggest that possibly for the few minutes remaining—it is now 11 minutes to six—we recall Mr. K. Fraser, delegate of the Fisheries Association of British Columbia, of Vancouver, B.C., and ask him

if he is ready to give us the information which committee members asked for yesterday. The reason I would like the committee to hear him now at this time is because I understand he has plane reservations to leave tonight for British Columbia. Would that be satisfactory to you, Mr. Stevens?

The WITNESS: I would like an opportunity tomorrow if that could be arranged, either tomorrow or Friday.

The CHAIRMAN: What time tomorrow?

The WITNESS: I would like most of the day to prepare, but I could work at it tonight.

The CHAIRMAN: Our meeting will be at 11 o'clock tomorrow.

The WITNESS: That will be all right.

The CHAIRMAN: I will now ask Mr. Fraser to come to the table.

**Mr. K. Fraser, Delegate of the Fisheries Association of British Columbia, Vancouver, B.C., called:**

The WITNESS: Mr. Chairman and gentlemen, I thank you for your consideration. I have obtained certain information which enables me at this time to answer some of the questions asked by members of the committee yesterday. The figures given in all cases are approximate, as it would be very difficult to obtain the exact figures to answer these questions.

The first question asked was what proportion of the catch of fish in British Columbia was handled by members of the Fisheries Association of B.C. The members of our Association handle 98 per cent of the salmon canning operations, 100 per cent of the reduction operations and 75 per cent of the fresh and frozen catch.

Another question had to do with the number of employees and the number of fishermen delivering to members of the Association. The number of employees and fishermen vary from season to season but the average number of employees is 3 to 6,000 and about 10,000 fishermen deliver their catches to members of the Association.

With respect to payrolls, the member companies of the Association pay annually to employees about thirteen million dollars in wages and salaries and they pay approximately thirty-two million dollars to fishermen.

It is impossible to break payments to fishermen into the categories of money paid for fish caught in territorial waters and money paid for fish caught outside territorial waters.

I believe that answers your question, Mr. Goode, does it not.

Mr. GOODE: Yes. Thank you for the trouble you have taken.

The CHAIRMAN: Is there anything more you would like to add to the statement you gave the committee yesterday, Mr. Fraser?

The WITNESS: Nothing at this time, Mr. Chairman.

The CHAIRMAN: Are there any other questions to be addressed to Mr. Fraser? If not, I want to thank you very much Mr. Fraser, for your presentation and I hope you have a very good trip back to British Columbia.

It has been suggested that the committee adjourn until 11.00 o'clock tomorrow morning.

Mr. GIBSON: A number of members of the committee will be away tomorrow, Mr. Chairman.

The CHAIRMAN: At what time?

Mr. GIBSON: Late in the afternoon. Would it be possible for us to have Mr. Stewart Bates with us again tomorrow? I think it would be very

useful to the members of the committee if they could have the privilege of questioning Mr. Bates on the objections which are summarized on page 15. I wonder if Mr. Bates could be here tomorrow?

Mr. MACNAUGHT: Yes. Mr. Bates will be here.

The CHAIRMAN: Yes. Mr. Bates is with us this afternoon and he will be here again tomorrow.

It is agreed then, that we shall now adjourn until 11.00 o'clock tomorrow morning in room 430.

The committee adjourned.



## EVIDENCE

MAY 29, 1952.  
11.00 a.m.

The CHAIRMAN: Order, gentlemen, we have a quorum.

Mr. Stevens is here this morning and he has asked to have the opportunity of speaking to the committee again. I will ask Mr. Stevens if he will come forward and make his statement.

Mr. Homer Stevens, Secretary-Treasurer, United Fishermen & Allied Workers' Union, called:

The WITNESS: Mr. Chairman, gentlemen: As stated yesterday, I wish to present further evidence and argument in connection with the earlier statements made to this committee.

My preparation has been rather short and I hope in anything I say I will not prejudice the case of the membership that I represent.

First, I would like to deal with Mr. Bates' reference to the essence of the problem. He refers to it on page 14 of the original submission:

I think the essence of the problem relates to the fishing resources on the high seas. Traditionally the high seas have been regarded as free, free for navigation, and free for fishing.

The particular resources with which we are concerned spend most of their lives in the high seas, and as such they are open to the fishermen of all countries. That concept of the freedom of the seas, is, I think, one of the basic concepts of freedom in the minds of men, and it has certainly been so since the sixteenth century.

He goes on to say further:

In Canada as in the whole commonwealth and as in the United States and some other countries, territorial waters have been measured traditionally on the basis of the three mile limit; the three mile limit measured from meanderings of the coast.

And, further:

If you start from the basic presumption that the seas are free outside the three mile limit, you immediately have a major problem in fisheries because the seas are free, there is a danger with respect to fishing and that danger is probably greater today than it has ever been. It is a danger which was recognized on the west coast of this country, and steps were taken to try to prevent it.

We can agree with Mr. Bates—"that if you start from the basic presumption that the seas are free outside the three mile limit you have a major problem in fisheries". We believe that there is absolutely no justifiable reason for such a presumption. We have tried to show by quotations from experts on the subject that there is no internationally accepted "three mile limit".

It should be obvious to members of the committee that our contention is correct. Nevertheless, here are some additional facts taken from Stefan A. Riesenfeld's book on "Protection of Coastal Fisheries under International Law".

France agrees in part with the three mile rule but France, in 1936, extended the territorial waters of Indo-China for fishery purposes to two myriameters

(10.7 nautical miles). It was declared that the decree was issued because of the necessity to protect the fishing banks along the coast against irregular exploitation.

Spain has stated that: Spanish law has adopted the unwritten principle that territorial waters shall extend for six miles, or 11,111 meters, from the extreme seaward limit of the coastline or from low water mark.

Portugal seems likewise to have claimed jurisdiction over the coastal waters generally to a width of six miles. In 1929 the Portuguese government recommended a territorial belt of 18 miles and at the same time stated the breadth of territorial waters, for purposes of fishing and with a view to giving the States exclusive fishing rights, should be much more than six miles.

Italy claims a territorial belt of six miles, and special rights for an additional six miles.

Yugoslavia in 1930 stated that her territorial waters extended to six miles from the coast for all purposes, including fishing rights.

Sweden claims traditionally a territorial belt of four miles for all purposes. Furthermore, she calculates the breadth of territorial waters by drawing a basic line between the outermost points of the coasts, islands, islets and rocks, the line being drawn across the mouths of the bays, irrespective of their widths.

The Soviet Union generally claims control within a coastal zone of 12 miles.

Mexico claims jurisdiction over a 9 mile belt off her coasts and has even claimed dominion over the continental shelf adjacent to her shores to a depth of 200 metres.

It may also be correct to say that in Canada, as in the whole commonwealth and as in the United States and some other countries, territorial waters have traditionally been measured on the basis of the three mile limit. Nevertheless, we believe very strongly that it is high time Canada took a more positive, modern, and realistic view of the need for more protection to her Pacific coast fisheries than the old "tradition" provides. After all, it is common knowledge that the three mile limit was originally based on the recognition of the distance of a cannon shot.

Mr. GIBSON: On a point of order, Mr. Chairman, I am just wondering if this particular submission is not something that should be before the External Affairs Committee rather than before the Fisheries Committee. Just how pertinent it is to this particular treaty we are discussing now I do not know? It seems to me it is a matter of government policy as to whether they are going to make a declaration of where our continental fishery limits are going to be established. I would hardly think it is within the ambit of the Fisheries Committee to discuss a matter of that kind. I am just wondering how the other gentlemen of the committee feel.

Mr. PEARKES: Mr. Chairman, we permitted a discussion or statement of this subject by the deputy minister and surely if it was in order then it should be in order to continue discussion now.

The CHAIRMAN: Has anyone else anything to say?

Mr. Gibson?

Mr. GIBSON: I was just wondering did the deputy minister know as much of the background as far as the limits of the territorial waters are concerned? I think the Fisheries Department feel that it is beyond their jurisdiction.

Mr. APPLEWHAITE: I think, Mr. Chairman, it is beyond the ambit of the report which we would be able to make. I do not know that it is objectionable that it should be discussed, but I do not think we are going to be in a position to make any recommendation on what is or is not to be the extent of our territorial limits.

Our recommendation is going to have to be definitely what we do or do not do with the proposed Japanese treaty and I would respectfully suggest that Mr. Gibson's point is very well taken. But at the same time I would also suggest that some discussion of the matter is not objectionable while it may be irrelevant.

Mr. PEARKES: Would it not be within the competence of this committee to refer the question and recommend that consideration be given to this problem by the Committee on External Affairs?

The CHAIRMAN: Any other discussion on the point of order?

Mr. GILLIS: Mr. Chairman, I do not agree with Mr. Gibson. If the treaty is legitimately before this committee, then the discussion that the witness is carrying on is in order because the treaty itself deals with that very subject, the zoning of the waters, the striking of what our coastal limits are going to be and conservation measures.

If Mr. Gibson is right, then this treaty should have gone to the External Affairs Committee, but if it is legitimately before this committee, this discussion that is being carried on now is one that bears most heavily, in my opinion, on this treaty itself.

Mr. APPLEWHAITE: In reply to Mr. Gillis, Mr. Chairman, I repeat I do not think the discussion is objectionable but it only is within the ambit of the treaty to the extent that the treaty excludes it because the treaty says:

Nothing in this Convention shall be deemed to affect adversely (prejudice) the claims of any contracting party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries.

In other words, the draft treaty says that it does not affect the matters of territorial waters and to the extent that it is referred to as an exclusion it is in the treaty but to that extent only.

Mr. GIBSON: So if that has been excluded, what are we talking about?

Mr. GILLIS: It certainly is not excluded. It opens it wide open; it says nothing about it but it very definitely is there.

Mr. GIBSON: But this treaty has been referred to. What has been referred to is the treaty and yet the treaty specifically excludes any attention as far as territorial waters is concerned.

Mr. GILLIS: Well, all through Mr. Bates' evidence the pertinent matter under discussion before this committee was how far the ships were coming in, just how far they were to fish and the whole discussion was on that. In my opinion that is what the treaty is trying to set out, just where you are going to fish.

The CHAIRMAN: Is there any further discussion on the point of order?

Mr. MOTT: Not on the point of order, Mr. Chairman.

The CHAIRMAN: There is a point of order before the committee at the present time.

Mr. MOTT: I do not think this comes under the point of order. I was just looking at the quotation made by Mr. Stevens in regard to the remarks made by Mr. Bates, and if he would have followed it along I believe it is covered there just underneath what he is reading as far as I can understand what is being quoted, and I was wondering if it had not already been covered by Mr. Bates. He explained all these six and twelve-mile limits.

Mr. BLACKMORE: Mr. Chairman, it seems to me the speaker is giving us information that is good for us to have and it is not going to take us an undue amount of time. I would suggest we allow him to proceed with his presentation.

It seems to me it has a bearing if not directly at least indirectly on this whole question, and certainly anything that will give us light and understanding we want.

Mr. GIBSON: Well, I won't press the point, Mr. Chairman, and if the committee feels that we have the time, I think, as has been suggested, that the information is valuable.

The CHAIRMAN: Do you withdraw your point of order, Mr. Gibson?

Mr. GIBSON: Yes, if the committee so feel they would like to hear it.

The WITNESS: It is also true that many states have observed a twelve-mile rule for the purpose of controlling smugglers. We are convinced that the control of our vital fishery resources beyond three miles from our coast is absolutely essential and that no treaty based on the "three-mile conception" should be ratified by the House of Commons.

The concept of "freedom of the seas" is not synonymous with freedom to exploit the fisheries of the seas. This is obvious from the special decrees of the United States and Mexico in 1945 in which a distinct separation was made.

We do not propose to alter the right of freedom of the seas in respect to navigation, but we do consider it vital to Canada to make it clear to all nations that they are not free to come up to three miles off our coast to exploit our fisheries.

Mr. Bates refers also to the Truman proclamation which we mention in our brief, stating:

Some years ago, in 1945, a proclamation was made by Mr. Truman in the United States, which many people thought amounted to just that: That the United States would declare sovereignty over the high seas adjoining their coasts. Some other nations interpreted it that way, particularly Latin American nations, and they issued a declaration in turn, much more precise than the American. Some of them declared that they would exercise sovereignty zones over from one hundred and fifty to two hundred miles out to sea: that they regarded the zone as territorial waters, and that other countries were to refrain from fishing therein. The United States department was quick to point out to those countries that the United States would not respect any such unilateral declaration of sovereignty over the high seas by any single nation.

We claim that the United States has backed away from the Truman proclamation of 1945 for reasons of national interest. Her more recent statements and views are not always in accord with that statement. As stated by Edward W. Allen in a recent article in the National Fisheries Yearbook:

It must be admitted that our Government declined to ask for the simple reciprocal solution demanded by the fishing industry—that the Japanese stay out of our coastal fisheries and we stay out of theirs. Neither is the present proposal in complete conformity with Secretary Hull's communication to Japan, with the presidential proclamation of 1945, or with some modern trends in the interpretation of international law.

Similarly, Mr. Harold Lohken, of Seattle, who was one of the United States delegates at Tokyo made the following statement on his return:

This proclamation backfired somewhat when the Central American countries followed with individual proclamations covering areas two hundred miles offshore.

We are convinced that Canada should not be afraid to make a proclamation of policy simply because a similar proclamation happened to backfire against the

United States. Actually, we are more certain that Canada should follow the example of the Latin American countries in regard to proclaiming our rights over the offshore fisheries adjacent to the Pacific coast.

Mr. Bates goes on to deal with our proposals for establishing a wide conservation zone on the Pacific coast. He says:

Of all the countries bordering the Pacific, Canada has, I think, the shortest shore line. Our shore front is only some six hundred miles on the Pacific; we have only a short water front, compared with the United States, Chili, Russia, Japan, China, and the Philippines. And if the Pacific were zoned on the basis of territorial waters our zone would be one of the smallest. And even if we could zone it, to do so might be unwise, because already our fishermen fish outside that zone.

We say that if compelled to do so we would be quite happy to confine our fishing operations to our six hundred mile wedge provided the United States vessels were kept out. Otherwise if United States vessels are allowed to continue on the basis we have proposed, we should always be able to assert a special right to fish south and north off the coasts of United States and Alaska.

Perhaps the following facts will be helpful to the committee to appreciate our viewpoint.

In any examination of the areas where our fishermen operate, it is immediately obvious that the overwhelming majority of our fishing effort is concentrated on the fishing grounds off our own coast. The halibut fishery is probably the best example since it is the major fishery where Canadian vessels operate off foreign territory which, in this case, is the Alaskan coast. The total Canadian landings during the 1951 season came to 21,466,000 pounds. Of this total, 16,346,000 pounds were taken in Area 2 which is primarily the west coast of Vancouver island, Hecate Strait and the west coast of the Queen Charlottes. Only 5,120,000 pounds were taken by Canadian vessels operating in Area 3, which is off the coast of Alaska. In other words, over 75 per cent of our halibut is taken in waters off our own coast and only 25 per cent elsewhere. When we realize that in 1951 the United States fleets operating in Area 2 landed 14 million pounds of halibut, it is clear that were we to forego our operations off Alaska in return for the Americans staying out of Hecate Strait, we would find it considerably to our advantage.

The salmon section of the industry is carried on almost exclusively either in our own territorial waters or in the off-shore waters adjacent to British Columbia. While we may have the odd troller taking a cruise down off the coast of Washington and Oregon or up off the coast of Alaska, such cases are very few compared to the large number of American trollers which operate off the west coast of Vancouver Island.

In so far as herring is concerned, it is entirely a British Columbia operation with practically no off-shore fishing even off our own coast.

The black cod, ling cod, sole, crab and liver fishing operations are conducted by Canadians primarily off the B.C. coast or in territorial waters. We have had instances of Canadian vessels going after tuna or black cod in off-shore waters off the coast of Alaska or as far south as California. Nevertheless, as will be shown later, the catches taken by Canadian fishermen in U.S. waters are small compared with the catches taken by American vessels exploiting the fisheries off the west coast of Vancouver Island and Hecate Strait.

*By the Chairman:*

Q. What paper are you reading from?—A. I am just reading from a previous analysis made by myself in *The Fisherman*. I am not quoting anyone else here except where I say I am quoting someone else.

Recently a conference was held in the United States under the auspices of the Pacific Marine Fisheries Commission. We had delegates there and some of the things coming from that conference were as follows:

Canadian scientists reported that they consider the waters of Hecate Strait as comprising four distinct trawl grounds, which are fished but little by Canadian vessels.

Pointing further to the use of Canadian off-shore waters by American vessels, they said that 82 per cent of the trawl catch off the west coast of Vancouver Island is made by American boats.

It was also reported to 'Washington trawlers more and more are fishing off the mid-B.C. coast with 45 per cent of the Puget Sound landings now coming from these waters, landed in only 36 per cent of the trips.'

Graphs showed the seasonal shifts in otter trawling operations out of Seattle during the year. It was noted that the late spring and mid-summer operations center largely in the vicinity of Cape Flattery but with the onset of autumn and through the winter the fleet does its fishing well up the coast of British Columbia in the Cape Scott and Hecate Strait area.

Mr. Bates argues that:

... it would not have been possible to make an agreement with Japan simply in the terms of saying: you stay off our coast and we will stay off yours.

The reason he gives is that:

She knew that she might have to make similar ones with Russia, China, Korea, Indonesia and Australia. So every clause in this treaty was considered by the Japanese in terms of its possible Asiatic application.

We knew that the Japanese were concerned about the reaction of other Pacific nations to her fishery exploits—past, present and future, but we see no reason for changing or modifying our requests on that account. All the more reason to contact the other nations, to obtain their views, to invite them to help draft the new "Convention for the North Pacific."

Why should we strengthen Japan's hand in respect to Pacific fisheries when we knew, as Mr. Bates has stated:

Of the nations on the Pacific, she was the one most likely to begin fishing on our side.

It would seem to have been far more advantageous to get the support of the other Pacific powers for protection against Japan rather than cut much of the ground out from under their feet.

Mr. Bates states: "There are not a great many fisheries in the world meeting those principles." He is here referring to the principles of the proposed tripartite treaty. Japan must be convinced that practically none of the other Pacific fisheries meet those principles or she would not have agreed with them. It is clear that none of the Japanese fisheries are under "scientific investigation

and regulation," so no abstentions from fishing off the Japanese coast are provided in the treaty. Yet, according to Dr. William C. Herrington, head of the United States delegation at Tokyo:

The coastal fisheries of Japan supply about 85 per cent of her total catch. Why did they not demand protection? Two probable seasons are:

- (a) They had no fear that Canada or the United States would invade Japanese coastal fisheries.
- (b) They intend to expand greatly and did not want to create even that much of a precedent for protection in Asian waters of offshore fisheries.

Dr. Herrington has pointed out that Japan has one and one half to two million fishermen, 450,000 fishing boats, 83 million people in an area smaller than California.

Her coastal waters are crowded with between a quarter and a half a million excess fishermen. She looks to further expansion of her fisheries to do three things—

- (1) Absorb some of the surplus fishermen now crowding coastal waters.
- (2) Provide greater production to reduce the food deficit of the nation.
- (3) Provide additional products for export to supply foreign exchange with which to obtain needed imports.

But we are told over and over again that it would not be profitable for the Japanese to send mother ships to catch cod, flatfish, etc., if they could not take halibut, salmon and herring.

Mr. Bates puts it this way:

A factory ship from Japan could probably make out better and have a more profitable expedition closer to home than off the British Columbia coast. Secondly, our fishing industry now has better protection than it had before; it is no longer possible for the Japanese to come over and fish salmon on the most profitable species; so the danger from Japanese fishing is greatly reduced from what it was before.

We are not so easily convinced that Japanese vessels will stay out because such expeditions are not profitable. Certainly, if it is profitable for fifty to one hundred American trawlers to exploit fisheries off our coast, exclusive of salmon, halibut and herring, it should be profitable for Japanese vessels to do likewise. How long will better and more profitable expeditions be available closer to Japan? We insist on being realistic and on looking to the future.

Here are some illuminating facts quoted from the Commercial Fisheries Review published by the United States Fish and Wild Life Service:

The mothership *Tenyo Maru* (3,689 tons) left Tokyo March 12, 1951, and returned to Japan June 28, 1951. (She) received an estimated total of 4,295,000 pounds of fish, from which was produced: tuna, frozen in round, 2,446,310 pounds; frozen fish fillets, 980,700 pounds; shark, 272,050 pounds; others, 136,570 pounds; total, 3,835,530 pounds. A few boats of this fleet (she had with her sixteen smaller vessels) also transported a small cargo to Japan.

Let us remember that Japanese fishermen work for a fraction of what Canadian and American fishermen require in earnings. In many instances their basic wage or guarantee on such trips is less than \$20 per month on such expeditions.

The types of fish that would be caught by such an expedition to British Columbia offshore waters are quite valuable and worth coming after: black cod or sable fish brings a price to our fishermen of from 14 cents to 22 cents a pound, as compared to 7½ cents to 25 cents a pound for salmon.

*By the Chairman:*

Q. You are not quoting now from the article?—A. No, I am sorry.

Fillets of sole, flounder and grey cod bring good returns to the wholesale fish dealers in Canada and the United States, even though the prices paid to Canadian trawlers are presently quite low. Vitamin oil-bearing livers could be obtained in large volume from the dogfish which abound off our coast. Incidentally, this fishing has been declining as a source of income to Canadian fishermen largely because of cheap imports from several Pacific nations, including Japan.

We simply cannot agree that economic factors will prevent Japanese vessels from coming over to exploit the species which are not included in the doubtful protection of the treaty.

We have also raised some doubts about the effectiveness of the treaty in protecting our salmon, halibut and herring stocks during the ten-year period of the treaty. We pointed out in an earlier statement, copies of which the members of the committee have before them in this four-page supplement which is in the back of the brief—

*By Mr. MacNaught:*

Q. Who prepared this statement?—A. I did.

Q. Your own preparation again?—A. Yes.

—that if Japanese vessels violate the treaty by catching salmon or halibut:

We have the right to seize such vessels but must turn them back to their government for sentence.

We pointed out that we could not logically assume that the Japanese government will impose any real penalties against their fishermen for carrying out what the ruling circles claim is in their national interest—that is, to go further afield for fish she can export for American dollars.

Mr. Bates in reply to a question in this committee stated:

If the Japanese did the things you mentioned it would be a breach of the convention. We have to take it on faith at this stage.

Frankly, we must confess a lack of faith at this stage. We knew that present conservation programs in Japan are almost nonexistent. Where they do exist there is such a welter of confusion between counties that real over-all control is almost impossible. Some of our Japanese-Canadian members (of the union) have told us that:

Japanese fishermen hardly know the meaning of the word 'conservation'. Many types of fish rarely get a chance to fully develop because they are fished out before they grow to full size.

Besides, we have found by experience on the west coast of Canada that only by stiff penalties, including confiscation of fish catches, fishing gear and even boats, have we been able to keep some of our own Canadian fishermen in line. On the other hand, Japanese vessels caught redhanded with halibut or salmon on board, whilst ostensibly fishing for flatfish and cod, would have to be returned, cargo intact, to Japan for trial under the terms of the treaty.

Even a stiff fine, imposed by Japan, would not return the salmon or halibut to Canada except as an export to gain dollar credits for Japan. Furthermore, fines have often proved in our experience to be a mere incentive to try again, as the fines are often less than the value of the catch obtained.

The question by Mr. Applewhaite on page 43 of the proceedings and Mr. Bates' reply only seem to confuse the issue further. Mr. Applewhaite's question and the answer were as follows:

Q. . . if we were to have here provision which would enable Canadian officers to seize Japanese vessels on the high seas and bring them

into Canada for trial, would you not at the same time have to accept that principle in reverse and make our vessels subject to seizure and to be taken to Japanese courts for trial?—A. Yes. The Japanese raised that question during the discussions. They pointed out that they would abstain from the fishing of halibut, salmon, and herring. And then they said that, if we wished to board their vessels, as a corollary they should have the right of boarding Canadian fishing vessels to see if the latter were carrying out the terms of the halibut, salmon and herring regulation; so it would be reciprocal. If we wished to board their vessels on the high seas, they should have the same right to board and arrest our vessels. We, of course, had to take the attitude that Japanese boarding Canadian vessels close to our territorial waters would hardly be a propitious action especially at this particular point of time; and the final determination of article 10 was based, as I said, on considerations both ways.

As I understand the treaty, we have the right under the treaty to board and seize Japanese vessels off our shores if we find they are taking salmon, halibut or herring. The Japanese have no such right to board any Canadian vessel unless we should in future fish off Japan for species we agreed to abstain from. There would definitely be no logical reason why they should ever be allowed to board Canadian vessels off Canadian shores any more than we would have the right to board Japanese vessels off the coast of Japan.

What is lacking is the power on the part of Canada to pass sentence on the violators. We would not fear a reciprocal arrangement where Japan could penalize Canadian fishermen who were caught off the coast of Japan taking fish that provide the means of livelihood for thousands of Japanese fishermen.

Mr. Bates referred several times to the protective proviso in article IV which precludes Canada being asked to abstain from fishing any species from the Gulf of Alaska southward. In fact he claims "It is the most important proviso in the Canadian terms". Unfortunately, this proviso is a double-barrelled affair.

We have already shown that Canada's offshore waters are heavily fished by American vessels, whereas we have not so greatly exploited the offshore fisheries of Alaska and continental United States. By a clause which prevents American abstention off our coasts for any species, we grant the Americans a very great advantage for a doubtful return. They can continue to expand their operations off our coast at will, but we cannot readily complain once this treaty is signed. There are no new areas opened up to Canadian fishermen.

We have always considered it our right to fish off their coasts just as long as they fish off ours. Clarence Strait will not be opened up to us if the treaty is ratified. The Americans consider Clarence Strait as territorial waters and we do not dispute their claim. Nevertheless, we have a right to protest their attitude towards Hecate Strait and Queen Charlotte Sound.

We received no great concessions in Alaskan waters, but we did give up the right to fish salmon in the Bering Sea. This may not be an important loss since we have not fished there to date, but by entering this three-way pact we gave up that right and may have to give up further rights in the same area simply because in that area we have agreed that what applies to Japan also applies to Canada.

Now we are told that we may be prohibited from going there for crab even though Japan will be there, unless we move in a hurry to establish a claim.

Finally, I would like to deal with the question of territorial waters and Hecate Strait. Mr. Bates says this document does nothing to affect our future claim to territorial waters. He says we have already claimed Hecate Strait as territorial waters although we have allowed the Americans to fish there because

of historic right. He assumes that if Japanese vessels attempt to fish there we would take the necessary action and push our claim still harder but—

It would probably involve us in some bilateral agreement with the United States at that point of time.

Why should such vital matters be left until the first Japanese vessel moves into Hecate Strait. Obviously since the convention specifically refers to the convention area as "all waters other than territorial waters of the North Pacific Ocean which for the purposes hereof shall include the adjacent seas," there is need for clarification. Does not Japan assume that what is high seas for the Americans is high seas for Japanese? If the United States refuses to recognize the fifty year old claim of Canada, why should Japan recognize it unless that point is cleared up now?

Mr. Bates' inference that it would involve a treaty with the United States to keep Japan out of Hecate Strait would indicate that Japan will insist that until such time as the United States acknowledges our claim Japan will not do so.

I want to thank the members of the committee for their attention to what I have had to say this morning. Please accept my apologies for what almost amounts to a second brief, but it is hard to condense these matters into a few words although I sat up until 3.00 o'clock in the morning trying to get it as precise as possible.

The CHAIRMAN: I want to thank you, Mr. Stevens, for it, and I presume the transcript of your notes will be available for the reporter because I feel sure he could not get it all down accurately at the speed at which you were giving it. I understand there are a few questions that will be asked you.

*By Mr. MacNaught:*

Q. Mr. Stevens, isn't your whole statement based on the premise that Canada should not recognize the three-mile limit?—A. I would say that a very important part of our presentation was based on that premise.

Q. Now, second, doesn't the convention leave this question open to future declaration of policy in accordance with any new principles of international law?—A. Well, as we see it, the treaty does state that matters such as territorial claims shall be left open. At the same time, as I have pointed out—

Q. That is the answer, it leaves it open?—A. Well, our feeling is that while it leaves it open, it also does not—it leaves the question open that Japan can go to within three miles at this time, but we say we should clarify that point before we sign such a treaty.

Q. Well, you admit that the convention leaves that question open to future declaration of policy in agreement with any new principles of international law which might be enunciated in the future?—A. Yes, I think so.

The CHAIRMAN: Does any other member wish to address a question to Mr. Stevens?

*By Mr. Catherwood:*

Q. Mr. Chairman, I would like to ask Mr. Stevens one question. The signatories under this representation, Appendix I to your brief, the Salmon Cannery Operating Committee and so forth—five altogether, were any of that group ever at any time associated with the Fisheries Council of Canada?—A. So far as I know the Salmon Cannery Operating Committee was the only organization affiliated.

Q. And are they still affiliated with the Fisheries Council?—A. Well, they have changed their name now to the Fisheries Association of British Columbia but they are still affiliated.

*By Mr. Blackmore:*

Q. I wonder if Mr. Stevens has made any specific recommendations in respect of changes that he would consider beneficial in the treaty before we accept it? As it is, if we can get these other two parties, Japan and the United States to agree to the treaty, we would be a good deal better off. Now, has he suggested or can he suggest some specific changes which he thinks would improve the treaty and be acceptable to these other two countries?—A. Well, I am afraid I cannot do that because we oppose the whole basic theory of the treaty, that is, it recognizes Japan's right or if it is referred to later it could recognize any other nation's right to come within three miles of our shore and fish for various species of fish and only by voluntarily abstaining does Japan not take salmon, herring and halibut. We originally proposed a far different type of treaty in which we would simply say to Japan that she should stay out of our coastal zone, our offshore waters and we would do likewise in her case. We are opposed to the basic tenets, if you like, of the proposed treaty.

*By Mr. Gibson:*

Q. You would rather have no treaty than this one?—A. Yes.

Q. Would you concede that there is 92 per cent of the value of our present catch covered under this treaty that it is protected in herring, salmon and halibut?—A. I would concede that they are protected for a matter of five years definitely and for ten years probably. After that time by having signed this treaty we acknowledge their right to come here. If the treaty should be cancelled they are in position to do so by virtue of that fact that we have recognized their right.

Q. Why have we recognized their right by virtue of signing this treaty? Supposing it lapsed in 10 years, aren't we in about the same position as we are now on the treaty?—A. Well, have set out certain principles here in which the nations only voluntarily abstain and they can only voluntarily abstain for certain reasons and they must agree on these reasons so they can be required to abstain. If they say after 10 years: "Well, we may still agree with the general principles but we do not agree these fisheries come under that, therefore we cancel this treaty."

Q. That is the position they are in now. We have talked about Japan coming into our coastal waters—not our territorial waters but off our coast, we have talked about that possibility for many years and they have never come and I would imagine there is no reason that they should any more come in now than they have in the past?—A. Well, we think that by signing this treaty, that while it does not say in the treaty that there is an open invitation certainly there is an incentive for them to come in order for them to establish the rights which we offer them to fish for cod, sole, black cod and so forth and possibly later the opportunity of coming over for the other species as well.

Q. I still believe that if the treaty expires that we cannot be in any worse position than we are now. After all, it may be very desirable for us to go over there and tell anybody, either the Japs or the Americans what we want them to do, but after all it takes two people to make a bargain and in this case it takes three people and it is not possible for Canada or the United States to go and tell a sovereign nation what they are going to do?—A. No, but at the same time we did not have to agree to a tripartite treaty in the first instance. We could have started negotiations with Japan bilaterally. We had proposed that before we signed the Peace Treaty with Japan. We had requested a clause in there which would give the protection we required. It was not done although Japan in the Peace Treaty at least agreed that she would go into that.

The CHAIRMAN: I think that was covered by the Honourable Mr. Mayhew in the House of Commons.

*By Mr. Blackmore:*

Q. Mr. Chairman, in the main I think Mr. Stevens would probably agree that his position is rather more negative than positive?—A. Is that a question?

Q. You would agree to that, would you not?—A. No, we think that our position is far more positive. We say: "Define our rights and insist on establishing a conservation for our coast and do not agree to the principles which are laid down here which are dealing all our off-shore fisheries not only to the Japanese but other nations who may want to come in".

The CHAIRMAN: Are there any other questions before we continue with the other matters on the agenda? There being no other questions, I would like to express the thanks of the committee to you, Mr. Stevens.

The WITNESS: There was one request I would have liked to have made if it is in order. I brought some extra copies of the printed matter in the back of the brief with me, and I wondered if it was possible to have them distributed to members of the House.

The CHAIRMAN: I think, Mr. Stevens, that it is simply a matter for you to mail them if you wish to the members of the House of Commons.

I would like to say, gentlemen, that the clerk of the committee has received a joint brief which came in this morning from the Fishermen's Co-operative Associations in Vancouver and Prince Rupert listing objections to the treaty; also a telegram from them endorsing the brief of the United Fishermen and Allied Workers' Union which I will ask the clerk to read to the committee. I think about 50 copies were submitted of this brief, and I think if they were distributed to the members of the committee, probably they could be taken as read and incorporated in the evidence if that is satisfactory to the committee.

Agreed.

Mr. PEARKES: Will there be an opportunity to ask any questions based on this brief?

The CHAIRMAN: I might say there is no one appearing for this brief, but it has been sent to the clerk of the committee with a request that it be distributed to the members. No doubt, of course, after the statements in the brief have been considered by the members of the committee it will be in order for this brief to be discussed at a meeting later of the committee before we make our final report to the House of Commons. That probably will be sometime next week because we have also Mr. Bates who will be available for questioning again later, and no doubt any remarks which members of the committee wish to make on these briefs will be taken up at a later meeting. Does that answer your question, Mr. Pearkes?

Mr. PEARKES: Mr. Chairman, I suggest this should be read. It would be better if we read it now rather than file it. There are others here who are attending this committee who are not members of the committee. For instance, the deputy minister; he might like to hear what is in this.

The CHAIRMAN: I think in answer to General Pearkes that the practice is that if a delegate appears before the committee that he reads the brief which he presents. Otherwise, it is distributed and printed in the evidence. I asked a while ago if that was agreeable and I understood it was agreeable. If, however, you wish it read and if no one objects, well, the only thing would be to have it read.

Mr. PEARKES: It would only take about five minutes.

Mr. FULFORD: Let us have it read.

The CHAIRMAN: Do you move that it be read, General Pearkes?

Mr. PEARKES: I do.

The CHAIRMAN: It has been moved by General Pearkes and seconded by Mr. Fulford that the brief be read. Those in favour please say aye; those opposed?

Carried.

The CLERK:

#### FISHERMEN'S CO-OPERATIVE ASSOCIATION

BRIEF RE OBJECTIONS TO PROVISIONS OF PROPOSED TRIPARTITE FISHERIES AGREEMENT BETWEEN CANADA, JAPAN AND THE UNITED STATES, SUBMITTED TO

A. SMALL, CLERK OF THE STANDING COMMITTEE ON MARINE  
AND FISHERIES, MAY 26TH, 1952

The Fishermen's Co-operative Association and the Prince Rupert Fishermen's Co-operative Association, representing four thousand active fishing members on the west coast of British Columbia, in meetings during February and March, 1952, took exception to the terms, as then known, of the proposed Fisheries Agreement on the grounds:

(1) That it did not provide for sufficient protection of fish caught in those waters historically fished by Canadian fishermen from the encroachment of the fishermen of other nationalities, and

(2) That it failed in establishing a pattern that could provide for continued peaceful relations in north Pacific waters.

The following resolution was passed at the Annual Meeting of the Fishermen's Co-operative Association of February 25th to March 1st, 1952:

That we recommend that our organizations exert all efforts to bring to the attention of the members of Parliament and the general public, the opposition of the fishermen to the proposed Treaty.

Prince Rupert Fishermen's Co-operative Association and Fishermen's Co-operative Federation have passed resolutions of a similar nature.

The reasons underlying their objections follow:

1. That it did not provide for sufficient protection of fish caught in those waters historically fished by Canadian fishermen from the encroachment of the fishermen of other nationalities:

(a) The annex of the agreement provides for the abstaining from fishing by Japanese nationals of only three species of fish in waters adjacent to Canada's Pacific coast. These species, halibut, herring and salmon, while representing three of the main species prevalent on the coast, do not, by any means, represent all of the major species at present being fished. Bottom fish of all kinds, crab, and those species fished for their liver alone may, under the terms of the Agreement, be fished on the off-shore waters by the nationals of Japan. Indications are that the stocks of these fish are at present suffering some depletion and the operation of additional vessels on these species would hasten depletion. It is wholly practicable for a mother ship, with filleting and processing aboard, to operate from bases in Japan along with fishing vessels, in waters adjacent to Canada's Pacific coast.

(b) The annex, at the same time, by recognizing the right of American vessels to fish these three species in waters adjacent to Canada's Pacific Coast, offers an invitation to American vessels to engage in catching of salmon and herring off the British Columbia coast, a fishery that they have not, up to the present time, considered free to engage in.

In turn, Canadian vessels are given the continued rights to fish waters off the Pacific coast of the United States. However, with the exception of the albacore species, Canadian vessels have not found it profitable in the past, to engage in any extensive fishing in the waters off the American coast.

- (c) Article III, section 1 (a) offers the only guarantee that the abstention from the fishing of these three species will continue in effect and that for only a period of five years.
- (d) Article IV, section 1 (b), subsection (iii), clause 1 states that "no recommendation shall be made for abstention by a contracting party concerned, with regard to any stock of fish which, at any time during the twenty-five years next preceding the entry into force of this convention, has been under substantial exploitation by that party, having regard to the conditions referred to in section 2 of this article", which, in effect, would allow for the continued fishing, regardless of the quantity available of any species fished at any time within that period by any national of the contracting parties.
- (e) Article X, section 1 (c) provides that "only the authorities of the party to which the above-mentioned person or fishing vessel belongs may try the offense and impose penalties therefor." A contracting party not applying the terms of the agreement in good faith, could hereby have a clear opportunity to encourage its nationals to ignore the terms of the agreement and encroach upon the fishing privileges of the nationals of other parties.

2. That it failed in establishing a pattern that could provide for continued peaceful relations in north Pacific waters.

The exclusion of the other nations on the Pacific, from the agreement, in itself defeats the objectives listed above.

#### *General*

The British Columbia fishing industry, when the matter of fisheries relations with Japan were discussed in May, 1951, was unanimously agreed that a fisheries agreement with Japan should be concluded simultaneously with the signing of the peace treaty and further that such an agreement should exclude the fishing vessels of Japanese nationals from operating in the offshore waters adjacent to the British Columbia coast and, in return, exclude the fishing vessels of the Canadian nationals from operating in offshore waters adjacent to the coast of Japan. A zoning principle was unanimously advocated. As recently as November, 1951, the industry still concurred in this position and in the further position that a tripartite agreement, because of the complicated nature of the issues involved, was not in the best interests of Canadian fishermen but that agreements between Canada and Japan and the United States and Japan should be concluded separately and that any divergence in interests between American and Canadian fishing rights and privileges should be resolved if necessary by agreement between Canada and the United States. Our membership have not changed their conviction on this basic premise.

The CHAIRMAN: Thank you very much, Mr. Small. The letter covering this brief reads as follows:

Mr. A. Small,  
Clerk of the Standing Committee,  
Marine and Fisheries Department, Ottawa, Canada.

Dear Sir:

Please find enclosed fifty copies of brief, presenting the views of the Fishermen's and Prince Rupert Fishermen's Co-operative Associations, re Japanese Fishery Agreement.

Would you please distribute these briefs to members of the standing committee.

Yours very truly,  
Fishermen's Co-operative Association.  
Karl Dybhavn,  
Secretary-Treasurer.

With regard to the telegram, gentlemen, this is a night letter sent from Vancouver, British Columbia, on May 28, 1952, to Mr. A. Small, the clerk.

"Further to our brief of May 26 regarding opposition to ratification of Japanese fisheries treaty we have today had opportunity to consider United Fishermen Allied Workers Union brief same subject. We fully endorse the views expressed by the union and respectfully request careful consideration of this important matter and hope the committee's recommendations to the House of Commons will be in line with these views. (Signed) Fishermen's Co-operative Association, Carl Dybhavn, Secretary-Treasurer."

Now, Mr. Catherwood asked a question, I think Mr. O'Brien, who is here from the Fisheries Council of Canada, might possibly answer that question for you, and I presume it is satisfactory to the committee that we call Mr. O'Brien.

MR. O'BRIEN: I think all I need say in reply to that question, Mr. Chairman, is that I think Mr. Stevens has already answered it and answered it correctly.

The CHAIRMAN: Thank you, Mr. O'Brien.

Mr. Bates is here for further questioning. Is the committee satisfied now to hear Mr. Bates, if he wishes to address the committee?

Mr. Bates.

**Mr. Stewart Bates, Deputy Minister of Fisheries, called:**

The CHAIRMAN: Is there any member of the committee who wishes to address any questions to Mr. Bates at this time?

MR. GIBSON: Mr. Chairman, I wonder if it might be useful to the committee if I were to ask Mr. Bates to reply to this summary of objections to these various aspects of the treaty that have been listed in Mr. Stevens' brief? They start on page 15 and go along to page 17 of his brief. I wonder if Mr. Bates would care to go over these point by point for our information.

The CHAIRMAN: Mr. Bates, would you be prepared at the present time to answer these objections or would you rather have further time to consider them? We realize that this brief was presented here only yesterday and I am not sure whether or not you have had sufficient time to go into the matter to deal with the question put forward by Mr. Gibson at this time. We could possibly leave it to a later date.

The WITNESS: Well, sir, it is always a helpful procedure. The brief was just given yesterday and again this morning. If the committee were disposed to give me that time I should be happy to have it.

MR. GIBSON: That is all right with me.

The WITNESS: It would give me more time in which to prepare myself; but we could proceed this morning.

MR. GIBSON: Time is not so essential, is it, Mr. Chairman? I was just thinking that the committee would like to have the considered views of the deputy minister on these points.

The CHAIRMAN: Yes. I think it would be better myself if a certain length of time should elapse so that we could all have an opportunity to go into the arguments which have been advanced in the brief presented to the committee. We will be meeting again next week. I do not think that an opportunity will be afforded for us to meet again this week. Is that satisfactory to you, Mr. Gibson?

MR. GIBSON: Quite satisfactory.

The CHAIRMAN: Would the committee decide the time of its next meeting?  
(Discussion as to procedure)

The CHAIRMAN: The motion is that we adjourn until Thursday next at 11.00 o'clock a.m.

The committee adjourned.







Canada. Marine and Fisheries.  
Standing Order No. 1952  
HOUSE OF COMMONS  
Sixth Session—Twenty-first Parliament, 1952  
CA1 KC1  
-M12

---

STANDING COMMITTEE

ON

MARINE AND FISHERIES

*Chairman:* T. G. W. ASHBOURNE, Esq.

---

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

---

THURSDAY, JUNE 5, 1952

---

Draft International Convention for the High Seas Fisheries of the  
North Pacific Ocean.

WITNESSES

Mr. Stewart Bates, Deputy Minister, Department of Fisheries;  
Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs;  
Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1952



## MINUTES OF PROCEEDINGS

THURSDAY, June 5, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Bennett, Black (*Cum-berland*), Bryce, Catherwood, Gibson, Gillis, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacNaught, McLure, Mott and Stuart (*Charlotte*).

*In attendance:* Mr. Stewart Bates, Deputy Minister, and Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs.

The Chairman presented and read the Third Report of the Sub-Committee on Agenda and Procedure, as follows:

Your Sub-Committee on Agenda and Procedure met on June 4 and has agreed to present the following as its Third Report:

Your Sub-Committee has considered the following communications:

1. Letter dated May 30, from Mr. Pearkes, addressed to the Chairman, recommending that the matter of defining the limitations of Canadian territorial waters on the Pacific Coast be referred to the Standing Committee on External Affairs.
2. Letter dated June 2, from Mr. Homer Stevens, Secretary-Treasurer, United Fishermen and Allied Workers' Union, Vancouver, B.C., addressed to the Committee, giving a supplementary statement concerning B.C. organizations, and a list of such organizations, who purportedly passed resolutions endorsing the U.F.A.W.U.'s opposition to the proposed treaty.

Your Sub-Committee has agreed to recommend thereon as follows:

1. That the Chairman be empowered to call a competent official from the Department of External Affairs to answer questions with regard to territorial waters on the Pacific Coast.
2. That the supplementary statement of the United Fishermen and Allied Workers' Union, contained in its letter of June 2, should not be incorporated in the record.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*

The Chairman read Mr. Pearkes' letter of May 30, copies of which were distributed to members present.

The letter from the United Fishermen and Allied Workers' Union of June 2 was read "off the record" by the Clerk of the Committee. It was agreed that this letter be distributed to Committee members as soon as additional copies are received from that organization.

On motion of Mr. Macdonald (*Edmonton East*),

*Resolved*,—That the Third Report of the Sub-Committee on Agenda and Procedure be now concurred in.

The Chairman read a night letter, dated June 4, from the Native Brotherhood of British Columbia, addressed to the Clerk of the Committee, endorsing the brief of the United Fishermen and Allied Workers' Union and urging Canadian control and regulation of offshore fishing beyond the 3-mile limit.

Mr. Bates was recalled and gave evidence in reply to evidence submitted by the United Fishermen and Allied Workers' Union, and was questioned thereon.

Mr. Erichsen-Brown and Mr. Ozere were called and gave evidence with regard to the matter of defining territorial waters on the Pacific Coast, and were questioned thereon. Mr. Erichsen-Brown, by leave of the Committee, placed on record an extract from The Customs Act together with a schedule to that Act (*See Appendix "A" to this day's Evidence*), copies of which were distributed to Members present.

The witnesses retired.

The examination of witnesses having been concluded, the Chairman reminded the Committee that the business now remaining consisted of an article-by-article consideration of the proposed treaty and the Committee's Final Report to the House on the treaty, which would comprise the agenda of the next meeting.

At 12.40 o'clock p.m., the Committee adjourned until 11.00 o'clock a.m., Tuesday, June 10.

A. Small,  
*Clerk of the Committee.*

## EVIDENCE

THURSDAY, June 5, 1952, 11:00 a.m.

The CHAIRMAN: Order, gentlemen. We have a quorum. I would like to welcome Mr. Bryce here this morning as a member of the committee. He is being substituted for Mr. Herridge. We are very sorry that Mr. Herridge could not continue with us, but we are glad to have Mr. Bryce in his stead.

I would like to ask the members of the committee this morning if they would raise their voices to this level so that the reporter will be able to hear what is being said. As we all know, this is a very large committee room and it is not easy for the reporter to hear the remarks of the members of the committee unless they are loud enough to be heard.

I have the honour to present the third report of the sub-committee on agenda and procedure as follows: (*See today's Minutes of Proceedings*).

In this regard, gentlemen, I would like the clerk of the committee to distribute copies of General Pearkes' letter, and I think it would now be in order for me to read it. The letter reads as follows:

OTTAWA, May 30, 1952.

T. G. W. ASHBOURNE, Esq., M.P.,  
Chairman, Standing Committee on Marine and Fisheries,  
House of Commons, Ottawa.

Dear Mr. ASHBOURNE—Owing to a previously accepted engagement, I am afraid it will be impossible for me to attend the meeting of the Standing Committee on Marine and Fisheries which you have called for June 5th. I would, therefore, like to suggest that the Committee give consideration to a recommendation I should like to make, namely, the desirability of defining the limitations of Canadian territorial waters on the Pacific coast be referred to the Committee on External Affairs.

As you will recall, Mr. Stewart Bates, Deputy Minister of Fisheries, when giving his evidence before the Committee on the Draft International Convention for the High Seas Fisheries of the North Pacific Ocean, stated (p. 14 of Minutes No. 1)—“I think the essence of the problem relates to the fishing resources on the high seas”. In subsequent paragraphs Mr. Bates explained the methods used by various countries in defining territorial waters.

In the Brief submitted by the United Fishermen and Allied Workers' Union, the practice followed by the various countries in defining their territorial waters was further discussed. It would seem desirable that the matter of defining the territorial waters of Canada, particularly on the west coast, be taken up by the Committee on External Affairs at the earliest possible opportunity.

If, in the definition of our territorial waters, the same method as was recently adopted by the Norwegian government, and approved on December 18, 1951 by the International Court of Justice, was followed a base line would be drawn from which the belt of the territorial waters would be reckoned. The geographical realities of the British Columbian coast line would lead to the conclusion that the relevant line might not be on the mainland but, starting from a point on the international

boundary in Dixon entrance, would follow the line of the west coasts of the Queen Charlotte Islands and Vancouver Island. If the waters within this zone were declared territorial waters, then the greater portion of the Dixon entrance, Hecate Strait, Queen Charlotte Sound and the Straits of San Juan would be included in this zone.

Obviously the historical rights of United States vessels to fish the waters of Hecate Strait would be recognized, but a declaration by Canada now, that she claimed these seas as territorial waters, would eliminate the possibility of other countries establishing a claim to the valuable fishing resources in these waters.

It would be very much appreciated if this proposal might receive the consideration of the Committee.

Yours sincerely,  
(Sgd.) GEORGE R. PEARKES

Gentlemen, this third report of the subcommittee is before you.

Mr. MACNAUGHT: Mr. Chairman, as one of the members on the steering committee I think it advisable to tell the committee the basis of our reasons for rejecting the request of Mr. Pearkes. In the first place it is not within the competence of this committee to recommend any matter to another committee; that can only be done by the House of Commons. For that reason we thought it desirable to bring a witness to this committee who may be able to help us on that point.

In connection with the request of Mr. Stevens, that letter enumerated a large number of small unions in British Columbia. There was no evidence in that letter that we could accept before this committee that any of those unions had agreed to the resolution, except the statement of Mr. Stevens, and we thought it would be creating a dangerous precedent if we should put on the record unsubstantiated statements that certain unions or associations had agreed to a certain policy.

Mr. APPLEWHAITE: Mr. Chairman, I think it should be added that 50 copies of that letter are going to be available, and will be distributed to the members of the committee. I think that was understood.

The CHAIRMAN: Yes. I might say in reply to your remark, Mr. Applewhaite, that they have not yet come to hand, but when they are received they will be sent to the members of the committee.

In this regard I would like to have the Clerk read the letter from Mr. Stevens, off the record:

*(Letter read off the record.)*

The CHAIRMAN: Gentlemen, you have heard the letter which has been read off the record by the clerk from Mr. Stevens dated June 2. I might say in this connection that another reason that was considered in the subcommittee, as to whether or not the supplementary statement of Mr. Stevens should be contained and incorporated in the record, was the fact that there would be no one present today to answer any further questions on this letter.

Now, gentlemen, a motion for concurrence of this report is in order.

Mr. MACDONALD: I move that.

The CHAIRMAN: It has been moved by Mr. Macdonald that this third report of the subcommittee be now concurred in. Can I have a seconder for the motion?

Mr. GILLIS: Yes.

The CHAIRMAN: Any discussion?

Those in favour? Against?

Motion carried.

I would like to say that Mr. Small, the clerk of the committee, this morning received this night letter from Vancouver, British Columbia, dated June 4:

A. Small, Secretary,  
Standing Committee on Marine & Fisheries,  
House of Commons, Ottawa.

Please inform committee that our organization endorses request made in brief of United Fishermen and Allied Workers' Union to oppose ratification of fisheries treaty with Japan and to urge proclamation of Canadian right to control and regulate offshore fishing in our coastal waters beyond the three mile limit which is not mandatory under international law.

Native Brotherhood of British Columbia  
William Scow Director Daniel Assn.  
President.

Gentlemen, we have with us this morning Mr. Stewart Bates, Deputy Minister of Fisheries, to reply to evidence submitted by the U.F.A.W.U., and also to answer any questions which the members of the committee wish to submit to him. We have Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and also Mr. Erichsen-Brown, legal adviser, Department of External Affairs. Mr. Ozere and Mr. Erichsen-Brown are here to answer questions with regard to territorial waters on the Pacific coast. If it is your desire I would ask Mr. Bates to come forward please to the table, and perhaps Mr. Ozere and Mr. Erichsen-Brown would also like to come up here to be available.

**Mr. Stewart Bates, Deputy Minister, Department of Fisheries, called:**

The CHAIRMAN: Mr. Bates, we are glad to have you with us again this morning, and in this connection perhaps you would like to make a statement first to the committee. If so, we would be glad to hear you.

Mr. GILLIS: Mr. Chairman, I wonder if he would include in that statement the practicability of the proposal made by General Pearkes in regard to defining the offshore waters on the British Columbia coast.

The WITNESS: It has not come to me, but I will be glad to do what I can with it.

In the earliest consideration between the fishing industry and the government of a possible Japanese treaty, the industry stated its position as follows:

We therefore request the Government of Canada to take steps to see that in a treaty of peace with Japan or in a protocol or other concurrent document, suitable provision be made to ensure that the Japanese fishermen stay out of the fisheries of the northeast Pacific ocean which we, in some cases jointly with the United States, have conserved and developed.

*(Quoted in Appendix 1 of Mr. Stevens' brief to the Committee, page 76 of this Committee's minutes.)*

The present treaty does just that. It contains an undertaking from Japan that their fishermen will stay out of the fisheries we have conserved and developed and it recognizes that this applies in the case of salmon, halibut and herring, which together make almost nine-tenths of the present raw material of the British Columbia fishing industry.

Mr. Stevens' brief suggests that another means should have been taken to the same end. He suggests that a new government policy should be pro-

claimed to extend the boundaries of our territorial waters. He recommends that the baseline for fishery protection should be not less than nine miles from our shores and more than the width of the continental shelf.

In cross examination by members of this Committee, Mr. Stevens finally admitted that the proposed convention leaves the question of territorial waters open for any future declaration of policy our government might make. In that he was correct. The treaty deals solely with protection of fish on the high seas. Should the government wish now or in the future to declare a new policy on territorial waters, they could do so. There can be, in other words, both a treaty for the high seas and a declaration on territorial waters if the government so wishes. As a civil servant, the committee will not expect me to comment on government policy.

On the question of territorial waters, Mr. Stevens in his brief makes some suggestions on which comment may be necessary for the purposes of the committee. International law does recognize different historic practices in measuring territorial waters in different areas. In our country, however, we have for many, many years used, broadly speaking, the three-mile limit.

Mr. Stevens quoted certain distinguished lawyers who have commented on the three-mile and other rules. (These are on page 80 and follows of this committee's minutes.) The committee will understand that Mr. Stevens was merely quoting the opinions of certain writers who were advocating new concepts. Until such concepts were recognized and acceptable they would not, however, constitute international law.

I understand however that the committee is bringing before it the legal experts of the government and that it will have, therefore, expert witnesses on this matter.

The committee asked me to comment on the objections to the treaty as summarized on Page 15 of Mr. Stevens' brief (and printed on page 56 of this committee's minutes). Each of the ten paragraphs are quoted below with a comment on each:

1. The first paragraph contains the basic views of Mr. Stevens and most of his other statements are the natural outcome of these views. These views of his are generally based not on international law as it is, but on law as Mr. Stevens would like to see it. When it suits his case, Mr. Stevens reverts back to law as it is, but in these paragraphs he discusses law as he would like it to be.

His first paragraph reads: "It acknowledges the right of Japanese vessels to fish in our coastal waters when there is no compulsion under international law to do so and no background of historic custom in these waters to necessitate any negotiation on the matter". The joker in this paragraph is the term "coastal waters". If by coastal waters he means territorial waters, his argument is obviously wrong. The treaty does not give anyone the right to fish in our territorial waters.

If by coastal waters he means high seas, his statement has no relation to the rule of law as it now exists. His statement would then read, "It acknowledges the right of Japanese vessels to fish in the high seas when there is no compulsion under international law to do so". There is no international law denying any nation the right to fish in the high seas. If Canada does not sign this treaty, international law on the high seas will remain as it is, and the Japanese will have the same rights as anyone. But if the treaty is signed, Japan agrees to abstain from the use of some of these rights.

Mr. Stevens is aware of international law as it is, and he uses it when he thinks fit. On page 89 of your minutes, referring to the proviso in the treaty that leaves Canadian fishermen free to fish any species under any conditions from the Gulf of Alaska southwards, he says, "however, it should be pointed

out that it is not because of this proviso, or because of the treaty that Canadian fishermen are free to enter fisheries they have not up to now used. Without the treaty we would be free from the Gulf of Alaska southward or northward to enter any fisheries we have not hitherto used provided we stay out of the territorial waters of the United States". Here Mr. Stevens is correct. He is stating the situation as it exists. Without the treaty, however, the Japanese fishermen would have the same rights—a point Mr. Stevens does not mention. Under existent law we each have the same rights. But after the treaty is signed, with Japan abstaining from the use of certain rights, the proviso clause continues to give Canadians these rights. That is why the proviso is important. Once we enter treaties that contain waivers of existing rights, clauses like this one that retain present rights gain a new significance.

Mr. Stevens' second paragraph reads as follows:

2. It accepts as a supposed favour what should be proclaimed as a Canadian right, namely abstention by Japan from fishing for salmon, halibut and herring in our coastal waters. But on this basis the supposed protection is illusory because there is no assurance of its continuation beyond 10 years and every likelihood of future demands for further concessions for every temporary renewal.

The first part of that statement made by Mr. Stevens refers to his belief that a new Canadian policy should be enunciated extending our territorial limits out further into the high seas. A comment has been made on that above. His second sentence however, seems to be out of keeping with the first. Now his complaint about the treaty is that its duration is not long enough and he is worried because there is no assurance of its continuation beyond ten years.

Mr. Stevens' third paragraph reads as follows:

3. It immediately invites fishing in our coastal waters by Japanese vessels for every species of fish other than salmon, halibut and herring, including flatfish, cod, rockfish, tuna, shellfish (shrimps and crabs), dogfish, whales and sharks.

Without the treaty the Japanese can fish any species on the high seas in to our or any other country's territorial limits. With the treaty they agree to abstain from fishing almost nine-tenths of our present raw material supplies. They can fish for these other species mentioned by Mr. Stevens, but the treaty protects the basic conserved and developed species.

Mr. Stevens' fourth paragraph reads as follows:

4. There is every reason, if the treaty is ratified, to anticipate acceptance of the invitation because a theoretical right becomes assured only by its exercise; because under the treaty no party can be asked to waive its right to fish a resource if it is exploiting that resource itself on a substantial scale; and because restriction on Japanese fishing vessels by other countries in the Pacific will intensify the pressure on waters not previously frequented.

Here Mr. Stevens is afraid the Japanese may come to the Eastern Pacific. If the Japanese do come to our side to fish, it will not be because of the treaty. It will be, as Mr. Stevens himself suggests, because economic necessity drives them to fish more distant waters. It was because of this possibility that the treaty was made. Yet in answer to a question by Mr. Gibson (*page 111 of this committee's minutes*) Mr. Stevens said he would prefer no treaty.

In this connection members of the committee should note carefully Mr. Stevens' general proposal. He recommends instead of the treaty and extension of territorial waters out to nine miles at least. Outside that zone the Japanese

would be free, under his proposal, to fish for *any* species—salmon and all others. But both Canadian and American fishermen are increasingly fishing offshore. To take only one instance, namely on the Swiftsure Banks off Juan de Fuca Straits, the seiners are beginning to make large salmon catches. But Swiftsure Lightship is only nine miles from shore. Even the edge of the continental shelf which he recommends as the outer limit of Mr. Stevens' zone is not very far beyond that light. The Japanese are excellent high seas fishermen. Under his proposal they could fish salmon and halibut just off areas where our fishermen are now fishing. We could do nothing then, under his proposal, not even board a Japanese vessel anywhere in the eastern Pacific high seas. But under the treaty they agree not to fish salmon, halibut and herring anywhere in the eastern Pacific. If they do fish other species just outside our territorial limits, we have the right to board them even on the *high seas* and to police their actions. Under Mr. Stevens' proposal we would not gain that right given by the treaty.

Mr. Stevens would hope to provide protection to our fishermen by extending our territorial waters. That would be all right if the fish would stay in them. But the salmon and halibut roam far to sea. The committee should remember too the revolutionary techniques now being found for catching fish on the high seas. The treaty tries to face up to this problem and to find a means of protecting our main species *anywhere* in the high seas and not just on the rim of our own continent.

The treaty provides protection for salmon, halibut, and herring 4,300 miles outwards into the Pacific.

Mr. Stevens' fifth objection to the treaty is as follows:

5. Any addition to the list of species on the "abstention" list for any signatory to the treaty is not to be expected because each signatory has a veto in this regard.

Additions to the lists of species on the abstention list may not be many. A species has to meet the three principles—scientific conservation, regulation and full utilization—before they merit consideration.

His sixth objection reads as follows:

6. There is no definition of Canadian territorial waters and no recognition as to the status of Hecate Strait as Canadian territorial waters in the treaty. Japan under the treaty may therefore send trawlers into the Hecate Strait and claim on the basis of the treaty equal rights with the United States.

In the first sentence here Mr. Stevens is right. The treaty does not define territorial waters and it would have been very unwise to have tried to do it in a treaty of this kind. In the second part he is in error when he says Japan may send trawlers into Hecate Straits. Hecate Straits are territorial waters in which Americans have been given special privileges. It does not follow that Canada would permit entrance of any other foreign fishermen to Hecate Straits.

His seventh objection reads as follows:

7. Under the treaty Canada agrees to abstain from fishing salmon in the Bering Sea but the United States is not bound to abstain from any area or species.

This statement is not quite right either. Mr. Stevens said Canada agrees to abstain from fishing salmon in the Bering Sea. We agreed to abstain from fishing salmon to the eastward of the 175th meridian. The remainder of the Bering Sea is open to Canadian fishermen for the catching of salmon or any other species.

His eighth objection reads as follows:

8. There is no justification for any of the glowing phrases that this treaty will usher in a new era of international co-operation in the Pacific fisheries. On the contrary

- (a) no other Pacific countries were consulted or invited to participate in the drafting of the treaty;
- (b) there is no reason why other countries in the Pacific should wish to adhere to this treaty and in any case no provision in the treaty itself for other countries to become participants in the proposed International North Pacific Fisheries Commission. Resolution III of the Conference states merely that "the Conference recommends that, in negotiating with other Governments in respect to problems similar to those covered by this Convention, the contracting parties shall give full consideration to the spirit and intent of this Convention."

It is true that other Pacific countries are not invited to participate in this treaty. Their interests are very varied and these could hardly be embodied in a single treaty at this time.

His ninth objection reads as follows:

9. The consequence of this situation is that ratification of this treaty by Canada is not only contrary to our national interest but cuts us off from other countries in the Pacific whose condition and interests are more in harmony with our own.

Mr. Stevens alleges that this treaty cuts us off from other countries in the Pacific whose conditions and interests are more in harmony with our own. I do not know to which countries he refers. The treaty certainly covers our closest neighbour, the one with whom we have most joint interests in fisheries, the United States.

His tenth objection reads as follows:

10. The really unique feature of this proposed treaty is that Japan would become a member of a tripartite Fisheries Commission empowered to investigate fisheries in our coastal waters in which she has never previously participated.

There is no justification for this novelty and every reason to anticipate that such investigation will provide valuable information for future participation.

To regulate our Fraser River pink runs or to conserve bottom fish off our West Coast, we would need, not merely to negotiate directly with the United States but await investigation and recommendation by the new International Commission, with Japan as the third member.

The likelihood of an effective program of conservation prior to the depletion of any resources is lessened and not enhanced by such a situation.

Mr. Stevens here suggests that because of the treaty every investigation has to be conducted with the three parties present. Under Article III of the Convention it is clear that two parties alone can investigate and regulate without the intervention of the third party. He is therefore wrong when he says that to regulate our Fraser River pink runs we would need to await investigation and recommendation of the new International Commission with Japan as a third member.

The CHAIRMAN: Thank you very much, Mr. Bates. I presume some of the members of the committee may have questions to ask.

Mr. APPLEWHITE: Mr. Chairman, I would like to make a suggestion, if it is agreeable to the committee. I was wondering if perhaps we might be per-

mitted to call the representative from the Department of External Affairs at this point, because I would like to ask him a few questions, and then possibly the committee's follow-up might be directed either to Mr. Bates or to Mr. Erichsen-Brown as the occasion requires. In other words, we would have them both before us at the one time.

The CHAIRMAN: Is that suggestion agreeable to the committee?  
Carried.

I have much pleasure in asking Mr. J. P. Erichsen-Brown, Legal Adviser to the Department of External Affairs to come to the head table. In this connection perhaps Mr. Erichsen-Brown would like to make an opening statement.

**Mr. J. P. Erichsen-Brown, of the Legal Division, Department of External Affairs, called:**

The WITNESS: Mr. Chairman, I would like to make a brief statement.

The CHAIRMAN: Yes, that will be in order.

The WITNESS: First of all, I am not, technically, the legal adviser to the Department of External Affairs. I might be called the deputy legal adviser, although actually we do not use that term in our department. Perhaps I should say that I am a member of the legal division of the Department of External Affairs; I am the member of that division who, either fortunately or unfortunately, has had to deal with this subject.

I would like to say at the outset—and I believe that Mr. Bates made this observation at an earlier session—that there is quite a large number of departments of the government interested in this question of territorial waters.

I did not have a great deal of notice that it was the desire of this committee that I should appear here. But I have done what I can to brush up my recollection of points which I thought might be of interest to the committee. However, I would like to have it definitely understood that I am in no sense authorized to speak on behalf of any of the other departments; such departments include the Customs Division of the Department of National Revenue, the Department of Transport which has got an interest, the R.C.M.P. which has an interest in policing our coastal waters, the Department of Resources and Development, the Department of Mines and Technical Surveys which has a great interest in mapping as well as in some incidental questions which arise, and also the Departments of National Defence and Justice.

The second observation I would like to make concerns the importance of territorial waters when you are considering the rights of another state. The relations with another state depend upon international law; they do not depend upon domestic law. On the other hand, what has been done in domestic law may be of importance in determining what the international law would say was the resulting position.

The question of territorial waters is one on which you could write a book. I suppose if I were to look at the shelf in our legal library I could find perhaps nine or ten volumes anyway which have been written on this subject. Most of them I have not read, and if I were asked to give anything in the nature of an academic explanation of the factors involved in determining the extent of territorial waters, in the first place I would probably bore the committee, and in the second place I would be in constant difficulty.

I noticed in the brief of the United Fishermen and Allied Workers' Union submitted to the committee that there were references to legal authors, and I thought of preparing a list of counter-statements. But I decided that in the time available it would be quite useless for me to attempt to do so. However, I was grateful to Mr. Bates and I was glad when I observed that he had dealt so adequately with those matters in the statement which he has just made.

I think the most useful introduction I could make to this subject would be to refer the committee to the existing provision which has been made by parliament itself. I have brought with me some copies of an article that was included in the Customs Act by parliament in 1936, together with a schedule to that Act which was included at the same time, in which reference is made to an award of an international arbitration which concerned North Atlantic Fisheries. Possibly Mr. Small might distribute these copies now, then I might make a few references to them.

*By Mr. MacNaught:*

Q. Do you want this article incorporated in the record?—A. I think that would be for the committee to say.

Q. But you would have no objection?—A. No. It is a public document. It is an Act of parliament.

Q. I think it would be wise to have it incorporated in the record.

The CHAIRMAN: Is it agreeable to the committee that we have this article incorporated in the evidence?

Agreed.

Would you prefer to have it put in as an appendix?

The WITNESS: That would be quite satisfactory.

(See documents, Appendix A.)

The WITNESS: On the first page, there is a copy of an extract from section 2 of the Customs Act; that is the provision which was added in 1936. You will observe that the opening words of the section are that:

In this Act, or in any other law relating to the customs, unless the context otherwise requires, . . .

And then there follows in sub-paragraph (u) a definition, which reads as follows:

(u) "Canadian waters" shall mean all territorial waters of Canada and all waters forming part of the territory of Canada, including the marginal sea within three marine miles of the base lines on the coast of Canada, determined in accordance with international law and practice; subject, however, to the following specific provisions: . . .

I would like to make two comments. First, I would like to say that this definition in its terms is specifically limited to customs purposes. It appears in a domestic Act of Canada and it is the ordinary rule of statutory construction that you interpret the words used in an Act of Parliament with due regard to the purposes for which that Act was enacted by Parliament.

My second comment is this: That in this definition of Canadian waters, there is included the words "including the marginal sea within three marine miles of the base lines on the coast of Canada, determined in accordance with international law and practice . . .

You will observe that parliament has proceeded on the assumption that the starting point was the three mile limit; and that was followed by the concluding words:

. . . determined in accordance with international law and practice; . . .

I am coming back to this definition in a few minutes. But at this point I would like to turn over to the second sheet which is the schedule which is annexed, and there is quoted at the opening of the schedule the words of the question which were put to the Arbitration Tribunal as to the meaning of the words "three marine miles of any of the coasts, bays, creeks, or harbours"

referred to in the said article. That was a reference to the question which had been put to the Arbitration Tribunal, and the quotation was taken from an article of the treaty which was under consideration by that tribunal.

Now, the significance of this schedule is that it deals with bays, and if you will examine it, you will see from the comments of the tribunal, which are all quoted here, in the paragraph following the asterisks—and by the way, those asterisks appear in the original schedule to the Act. Parliament saw fit to leave out the intervening material in the original award. But if you will refer to these paragraphs, you will find a reference to what I might term the general rule in reference to bays. Then later on, following the caption under No. 2, there is a reference to certain specific bays. Those bays, you will observe, are all on the Atlantic coast.

Now, in connection with what I have referred to as the general rule, that is, the ten-mile rule in regard to bays, you will observe that the commission did not suggest that it was a rule of international law. So of necessity they made a recommendation, and the last two paragraphs of this first part reads:

Now, therefore, this tribunal, in pursuance of the provisions of article IV, hereby recommends for the consideration and acceptance of the High Contracting Parties the following rules and methods of procedure for determining the limits of the bays hereinbefore enumerated:

In every bay not hereinafter specifically provided for the limits of exclusion shall be drawn three miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

That was put in the arbitration award as a recommendation only. But in this definition in the Customs Act, parliament saw fit to include as the first exclusion in sub-paragraph (1):

- (i) Canadian waters shall not extend beyond the limits of exclusion recommended in the North Atlantic Fisheries Award, answer to question V, as set forth in the schedule to this Act.

That means that for customs purposes there was a domestic rule in the law of Canada created, that the territorial waters should be based on the three-mile rule determined in accordance with international law and practice and that in the case of bays, they are to follow this ten-mile rule.

But if you will look at the latter part of the schedule, the specific bays, those were based, where territorial waters were established, on what might be called a historic basis. In other words, there had been established over a period of years a line of conduct between Canada on the one hand and foreign states on the other, from which a deduction could be drawn that Canada had asserted claims to those bays as territorial waters; and there had been international recognition of that fact by other states.

This definition, which as I pointed out is in the Customs Act, is in general terms. In other words, the definition, in sub-paragraph (u), of Canadian waters applies to all territorial waters of Canada.

On the face of it, it applies to the Pacific coast as well. But on the other hand, obviously, the portions of the schedule which relate to specific bays on the Atlantic coast are completely irrelevant from the point of view of the Pacific coast.

I observed earlier that any rule of our domestic law was not to be regarded as conclusive in determining what the position might be internationally. I also pointed out that the Customs Act dealt with specific purposes, and I would like to enlarge on that.

The Customs Act is part of the domestic law of Canada. The important law in determining our territorial waters is international law. International

law may have regard to domestic law but the specific provisions of a statute in domestic law for a specific purpose are only evidence of the claims asserted by that state for that purpose and are not conclusive.

The introductory words of the definition of the Customs Act indicate that it is restricted to customs purposes and there is also a general rule of domestic statutory construction that all statutes should be construed in reference to the objective which Parliament must have had in mind in passing the legislation as disclosed by the statute in question.

Because of the foregoing considerations and the realization that different states of the world apply different rules, and in some cases rather extravagant claims have been made to territorial waters, a tendency which I note as a fact and without comment, the consistent policy of the Department when answering any enquiries received from foreign governments concerning territorial waters of Canada have been to include a paragraph along the following lines:

The conclusion has now been arrived at that it is generally recognized that there are, as yet, no particular rules which can be said to constitute a definite system of universally accepted principles thereon, and Canada, therefore, like most other countries, has been reluctant so far to formulate a definite policy in this respect.

Now we were, of course, anxious to preserve our position as regards the rest of the world, but what the government might do is in no sense for me to say, and I would not even offer an opinion as to what might be done. Now, I would like to close this introductory statement with another general observation.

This three-mile rule with base lines following the coast was established in the course of the nineteenth century, and the greatest exponent of that rule was the United Kingdom. It was referred to in a number of conventions to which the United Kingdom was a party, and some of which are referred to in the schedule to this Act which is in front of you. As part of the commonwealth, we inherited certain rights and obligations under old treaties, and I think it is a fair statement in so far as any commonwealth country is concerned, that in determining whether or not our territorial waters were determinable by anything other than the three-mile rule on such lines, we would have to proceed with considerable care; we would have to consider the extent to which we were bound by action taken in the past, and we would have to have regard to the rules as they have been accepted on the North American continent. I think that it is a correct statement as regards the United States and Canada, both of which have followed the same legal traditions, that such a three-mile rule is one which has been generally accepted.

In other words, on any question of our territorial waters, we would have to have regard to what has been done in the past, and the extent to which it has received international recognition. Therefore, to that extent the international rule is a three-mile rule.

I could make some further comments, but I think it might be more useful to the committee if I were at this point to break off and possibly answer any questions which might be asked.

*By Mr. Applewhaite:*

Q. Mr. Chairman, the matter referred to this committee in the first place is that of a proposed fisheries treaty with Japan. There are just a few questions to which I would like to have answers from this witness. I wonder if he could tell us at the present time, without the Japanese treaty what the position of our salmon and halibut fisheries on the Pacific coast would be in so far as the right of the Japanese to fish them is concerned, assuming, as I have said, that this treaty does not exist?—A. That depends essentially on the

territorial waters, or the limit of territorial waters. The situation, in a nutshell, is that in so far as the high seas are concerned, no state can restrict the activities of any other state. I looked up some of the legal authorities on this question of the high seas, and I might say that it is a question which the lawyers, in international law at least, are rather inclined to take for granted. We just assume it.

Q. Split it into two parts. I do not want to ask leading questions if I can help it. What is their position outside our territorial waters at the present time with respect to salmon and halibut?

The CHAIRMAN: You mean the Japanese?

*By Mr. Applewhaite:*

Q. I mean the position of Japanese fishermen outside our territorial waters at the present time, without the treaty?—A. I would say that without a treaty there is no restriction. Am I right in that, Mr. Bates?

Mr. BATES: You are the expert, Mr. Erichsen-Brown.

The WITNESS: That is my understanding of the legal position. And the reason I say it in those terms is that my understanding is that this convention which is before the committee is the first convention in which an attempt has been made to regulate fisheries on the high seas of the Pacific. And if that assumption is correct, and if this is, in fact, the first regulation—and I assume that it is—then the answer is very simple: That we have no control over the Japanese at all.

*By Mr. Applewhaite:*

Q. If we did have control, perhaps we would not need a treaty. Now, in the view of your department at the present time, what is the limit of our territorial waters on the Pacific?—A. Mr. Chairman, I made rather an effort to avoid having to answer that question. However, I would like to put it this way: That the three-mile rule following the coast has generally been regarded in the past as the rule, which has received international acceptance as between Canada and other states, on the coasts of Canada.

Q. I have just one other question at this time. Could you tell me if it is practical from the point of view of External Affairs that there could be one rule as to territorial waters on our Pacific coast and a different rule on our Atlantic coast?—A. I think the answer to that is "yes and no". And I will have to explain that answer. In so far as it is governed by general principles, the rule would obviously be the same; but in so far as these specific waters are concerned, where the question of historical background is relevant, obviously each case would depend on its own circumstances.

Q. Thank you!

The CHAIRMAN: Does any other member of the committee wish to address questions to Mr. Erichsen-Brown? If not, perhaps Mr. Bates might like to answer questions which would be addressed to him.

Mr. MACNAUGHT: Mr. Chairman, there is just one question I want to ask this witness.

The CHAIRMAN: Very well, Mr. MacNaught.

*By Mr. MacNaught:*

Q. Can the witness tell the committee if at the present time there is an inter-departmental committee making a study of the problem as it affects our territorial waters?—A. Yes, Mr. Chairman, there is.

*By Mr. Mott:*

Q. Mr. Chairman, I would like to ask Mr. Erichsen-Brown a question but I think he would need to look at the map in order to answer it. Perhaps Mr.

Bates would show him the place on the map about which I want to ask my question. I think it has been mentioned by Mr. Stevens in a suggestion that they come out from Dixon's Straits to our territorial line which would be three miles off the Queen Charlotte Islands; and if that is three miles off the Queen Charlotte Islands, I take it it would be the farthest point west of the Queen Charlotte Islands, and then a straight basic line down to the farthest point off Vancouver Island; that was the basic line I think he was talking about the other day. And if we were to try to get that basic line, would not the Americans have the right—if you go up to Alaska and take the long peninsula running out in Alaska, running out to False Pass, which is right at the end of the peninsula running out from Alaska, would they not have the right to take a basic line from there right across to the Gulf of Alaska over to Dixon's Channel, or Dixon's entrance, thereby cutting off the whole Gulf of Alaska? Would not the argument be the same? If you are taking the outside point of the western portion of the Pacific coast of Canada, would you not have the right to ask for the same?—A. I am not certain that I understand exactly where the last line that you mentioned runs.

Q. Right straight through.—A. In other words, slicing off a very large piece of the high seas?

Q. A base line out of the Queen Charlotte Islands right down to a point off Vancouver Island, regardless of what the distance is in between—a 3-mile limit from the furthest point out on the west coast as a base line for the Pacific coast fishermen.—A. I would like to be sure that I understand this question. I understand you have put it to me on the basis of what would be the effect if we were to make a declaration to that effect.

Q. Yes, would not the United States have the same right?—A. That, I take it, is a legal question?

Q. Yes.—A. I cannot venture to answer it and I cannot, of course, make any comment on any question of policy. I think the answer to that is that what are the territorial waters of a littoral state depends basically on the assertion of that littoral state as to what its claims are, plus the acceptance or acquiescence of other states in that assertion. That was the historical origin of the 3-mile-limit rule. As years went by and these questions of territorial waters became more important, the assertions on the one hand and the acceptances of those assertions by other states on the other, tended to follow a pattern and there emerged a rule of law, if you could put it that way. Now, to come back to your question, if this line were now to be declared, the answer to that would depend on what the international acceptance of that declaration might be. States which consider that they had rights in the high seas up to what they conceive to be the Canadian claim according to earlier claims by Canada would probably reject that declaration. Some of them might accept it, particularly the states which are, most of them, far off from Canada and with which we have no direct concern, some of whom have made what we regard as rather extravagant claims on their own behalf. Whether the important states from Canada's point of view would accept it or not is very much, if I might call it that, a "\$64 question".

The CHAIRMAN: Any other questions, gentlemen? I might say that Mr. Ozere, Director of Legal Service of the Department of Fisheries, is here as well, and would be glad to answer any questions directed to him.

Mr. APPLEWHAITE: I do not want to monopolize this discussion, but I want to ask Mr. Ozere one question. It may be embarrassing, but I think it is logical. I would like to ask whether he, as legal adviser to the Department of Fisheries, agrees with the answer given by Mr. Erichsen-Brown to my question as to the present position without a treaty on the Pacific. I could ask the same question over again, but I do not think it is necessary.

The CHAIRMAN: Would you like to answer that question, Mr. Ozere?

Mr. S. V. OZERE (*Director of Legal Service, Department of Fisheries*): Yes, I would entirely agree with Mr. Erichsen-Brown's statement of the position that beyond the territorial waters fishery resources under international law are open to any nation. We can fish beyond the territorial waters off the coasts of other countries, and other countries have the same right.

Mr. MACNAUGHT: Could I ask you one question, Mr. Ozere. Are you a member of the interdepartmental committee making a study at the present time of the territorial waters problem?

Mr. OZERE: Our department is represented on the committee and I have been representing the department at several meetings.

Mr. MACNAUGHT: Is the Department of Fisheries taking an active part in this committee's deliberations or work?

Mr. OZERE: Definitely.

Mr. GILLIS: Could I ask Mr. Bates to comment on the question of the practicability of the base line suggested in Mr. Pearkes' report here? We will be hearing more about the recommendation of Mr. Pearkes—it is in the fifth paragraph of his letter. He recommends a definite base line here and sets out the areas from which it should be drawn. In my own mind, you answer it quite clearly when you are speaking, but there are a lot of people who are going to read this evidence, but who are not here to hear that clear explanation, and you do not get it as well when you are reading it. Is that base line recommended by General Pearkes a practical proposition? I am not much concerned about the legal angles.

Mr. BATES: I take it that the base line referred to by the hon. member is the one Mr. Mott mentioned a few moments ago, that is, one which would be drawn from the extreme top of Queen Charlotte Islands and cover the outer fringe of Vancouver Island. That, again, is a question which the experts here will answer better than I. As I recall Mr. Stevens' suggestion, he said this shift might be done on the basis of a recent case that was before the International Court at The Hague, when a base line was redrawn for Norway in a controversy with the United Kingdom. Now, I am no legal officer, sir. I have read this case before the court and, as I recall, the British government had respected that particular base line by treaty from the year 1660 until 1906. It was a long, historical period in which the base line had been respected by treaty, and it is my understanding that that historical feature weighted very heavily in the judgment of the court. Am I right on that point?

Mr. ERICHSEN-BROWN: Mr. Bates, I was just going to question your use of the word "treaty". You are quite right that in the judgment before the International Court there was a major dispute on a question of fact. That question of fact was as to whether the claims which Norway said she had asserted over a great many years had been brought to the attention of the United Kingdom, and whether the United Kingdom had acquiesced in them. Norway relied on certain very early decrees, and my recollection is that the earliest one went back to the first half of the 19th century. The United Kingdom said in fact that she had not heard of these decrees, and that it was not incumbent upon her to object to decrees which had not adequately been publicized. Now, that question of fact—and I am speaking very generally, without having recently read the very lengthy judgment—but that question of fact was one which, according to my recollection, was resolved by the majority of the court in favour of Norway. The dissenting judges in the court resolved that question in favour of the United Kingdom, but I think it is a very true statement to say this, that the judgment of the court turned very largely on that question of fact on these Norwegian decrees which had been promulgated so many years before, and I think it is also correct to say that the principles recognized or upheld by the court in this case were based essentially on historical precedent.

Mr. GILLIS: Then the answer is you could not establish the base line recommended by General Pearkes without interfering with the historical rights of the United States.

The WITNESS: That, again, is a question of fact, Mr. Gillis. You may be right.

Mr. GILLIS: What have you to say, Mr. Bates?

Mr. BATES: You have two legal experts here. You have me in the same position as yourself, Mr. Gillis.

Mr. GIBSON: To establish a base line, it seems to me you would have to get acquiescence based on historical fact.

The CHAIRMAN: All these factors, naturally, are taken into consideration.

Mr. GIBSON: So the establishment of this base line as suggested would require you first to establish a lot of facts before establishing the base line, and also get a lot of acquiescence. Is that true? What would you say about that, Mr. Brown?

The WITNESS: Yes, I would say so.

Mr. GILLIS: Perhaps, then, as far as the United States is concerned, they could draw a line of boundaries for themselves and mess the thing up a little bit.

Mr. GIBSON: I might say they might have a way of retaliating in the matter of our fishing exports to the United States.

Mr. BRYCE: What are the benefits to be derived from that? Are there great benefits to be derived from getting this new base line?

Mr. BATES: Yes. I think there are several obvious benefits in any extension of territorial waters anywhere. There are obvious advantages from a straight conservation point of view. The more of the high seas, or rather the further your territorial waters extend into the high seas, the more species you have under your own control for conservation purposes. The Department of Fisheries would like to see our territorial limits extend as far out as possible. The extension suggested in this particular case would cover a great many fisheries, but the fact remains that in the case of, I suppose our main species, namely, salmon, that fish goes somewhere in the Pacific—we do not know where—during its off shore period. I think with the state of scientific knowledge, it would be very difficult for anyone to say that if you drew a line off the coast you would be sure to protect that species in the high seas for ourselves. So we have taken the only alternative, that is, trying to get the protection not by stretching the border out, but by trying to get the protection of the species, whether it happens to be in the high seas, or even whether it stretches across the Pacific. The other thing we think is very important is this: In British Columbia up to, one might say, very recently, the salmon industry in particular waited on the fish coming in the front door, coming into the Fraser river or into the Skeena river. It is now pushing its activities out into the high seas, and it must do so probably because there is every suggestion that the Japanese know how to take salmon in the high seas; they know the techniques, so unless we can protect salmon far into the Pacific we might be in the danger I mentioned this morning of having a territorial water line perhaps even quite far out from what we have today, which still would not protect our salmon species if someone else could catch them just outside that line.

Mr. GIBSON: Is it not true, Mr. Bates, that the quality of fish caught in the sea would be higher than the fish we catch in our living room, as it were?

Mr. BATES: It is generally true that fish taken in salt water have a higher quality than fish taken after they have entered the fresh water rivers. That is salmon, I mean, taken at sea.

The CHAIRMAN: Mr. Bates, I would like to ask you a question. If a line were drawn off our Pacific coast to the limits of the continental shelf, to what extent in miles would that line average off the coast line.

Mr. BATES: It is not possible to give a simple answer to that question.

The CHAIRMAN: Approximately?

Mr. BATES: First of all, there is a legal question as to what is meant by the continental shelf and what depth you draw it at.

The CHAIRMAN: The reason I asked that question in that way is that these words were used by a witness.

Mr. BATES: They were not defined by that witness. It is taken as one hundred fathoms depth. That line varies in distance from the B.C. coast. As I mentioned this morning, right at the opening of the Straits of Juan de Fuca the continental shelf extends for about 30 miles, but before you get halfway up Vancouver Island it comes down to almost three miles. It varies according to the configuration of the mainland and the bottom, so it would be quite a wavy line when drawn.

The CHAIRMAN: You mentioned also the 175th meridian in your statement. How far is that from the provisional line shown on the map, Mr. Bates?

Mr. BATES: That line slips down through to the Aleutians. The vertical line is the 175th meridian.

The CHAIRMAN: And then it converges at the top towards the 160th and 170th?

Mr. BATES: That is right. That line actually follows the international boundary line drawn at the time of the Alaskan purchase, in the treaty between the United States, Russia and the United Kingdom, drawn in 1867.

The CHAIRMAN: Gentlemen, we would like, if possible, to complete the examination of the witnesses today, so that the examination might be concluded. Would that be satisfactory to the members of the committee? I would suggest if there are any further questions that you would like to address to these three gentlemen now, that you would do so.

Mr. CATHERWOOD: Mr. Chairman, I wonder if this committee could recommend to the External Affairs Department the suggestion that Mr. Pearkes has made in regard to the definition of Canadian territorial waters. I think this matter is one of extreme importance and it would be in order to suggest to the Department of External Affairs that they re-examine and go into this matter very thoroughly so we will have a more precise definition of territorial waters, which I think will be of some help to us all.

The CHAIRMAN: In that regard, I might point out that there is an inter-departmental committee studying that matter at the present time. Do you not think that would cover it sufficiently?

Mr. CATHERWOOD: Yes, perhaps it will.

The CHAIRMAN: If there are no other questions to be addressed to these witnesses, I would like to express to the witnesses, on your behalf, the thanks of the committee for their presence here this morning and for the very helpful information which they have given to the committee. Thank you very much.

Now, gentlemen, the remaining business of the committee is to take up article by article consideration of the proposed treaty and the committee's final report to the House on the treaty itself.

Do you consider that the hour is too far advanced to go on with this now? If so, when do you wish to meet again?

Some Hon. MEMBERS: Tuesday.

The CHAIRMAN: We will meet on Tuesday at 11 o'clock.

The meeting adjourned.

## APPENDIX "A"

## EXTRACT FROM "THE CUSTOMS ACT"

2. In this Act, or in any other law relating to the Customs, unless the context otherwise requires,

- (u) "Canadian waters" shall mean all territorial waters of Canada and all waters forming part of the territory of Canada, including the marginal sea within three marine miles of the base lines of the coast of Canada, determined in accordance with international law and practice; subject, however, to the following specific provisions:—
- (i) Canadian waters shall not extend beyond the limits of exclusion recommended in the North Atlantic Fisheries Award, answer to question V, as set forth in the Schedule to this Act;
  - (ii) the extent of Canadian waters shall conform with the provisions of any other Act of the Parliament of Canada;
  - (iii) the Governor in Council may from time to time by proclamation temporarily restrict, for customs purposes, the extent of Canadian waters and such proclamation shall not be construed as forgoing any Canadian rights in respect of waters thus restricted;
  - (iv) the plotting of base lines and of the limits of Canadian waters on a map or chart issued under the authority of and approved by the Governor in Council shall be conclusive evidence of the due determination of such base lines and of the extent of Canadian waters or of Canadian waters temporarily restricted, pursuant to the provisions of the preceding paragraph (iii);
  - (v) "Canadian customs waters" shall mean the waters forming that part of the sea which is adjacent to and extends nine marine miles beyond Canadian waters.

## SCHEDULE

## NORTH ATLANTIC FISHERIES AWARD

Extract From Answer of Tribunal of Arbitration Constituted in Accordance with the Provisions of Article V of the Special Agreement between His Majesty and the United States of America, Signed at Washington the 27th January, 1909.

THE HAGUE, September 7, 1910.

## THE NORTH ATLANTIC COAST FISHERIES

## Question V.

From where must be measured the "three marine miles of any of the coasts, bays, creeks, or harbours" referred to in the said article?

\*\*    \*\*    \*\*

For these reasons the tribunal decides and awards:—

In case of bays, the three marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the three marine miles are to be measured following the sinuosities of the coast.

But considering the Tribunal cannot overlook that this answer to Question V, although correct in principle, and the only one possible in view of the

want of a sufficient basis for a more concrete answer is not entirely satisfactory as to its practical applicability, and that it leaves room for doubts and differences in practice; therefore the Tribunal considers it its duty to render the decision more practicable, and to remove the danger of future differences by adjoining to it a recommendation in virtue of the responsibilities imposed by Article IV of the Special Agreement.

Considering, moreover, that in treaties with France, with the North German Confederation and the German Empire and likewise in the North Sea Convention, Great Britain has adopted for similar cases the rule that only bays of ten miles width should be considered as those wherein the fishing is reserved to nationals: And that in the course of the negotiations between Great Britain and the United States a similar rule has been on various occasions proposed and adopted by Great Britain in instructions to the naval officers stationed on these coasts: And that though these circumstances are not sufficient to constitute this a principle of international law, it seems reasonable to propose this rule with certain exceptions, all the more that this rule, with such exceptions, has already formed the basis of an agreement between the two Powers.

Now, therefore, this Tribunal, in pursuance of the provisions of Article IV, hereby recommends for the consideration and acceptance of the High Contracting Parties the following rules and methods of procedure for determining the limits of the bays hereinbefore enumerated.

## 1

In every bay not hereinafter specifically provided for the limits of exclusion shall be drawn three miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

## 2

In the following bays, where the configuration of the coast and the local climatic conditions are such that foreign fishermen, when within the geographic headlands, might reasonably and *bona fide* believe themselves on the high seas, the limits of exclusion shall be drawn in each case between the headlands hereinafter specified as being those at and within which such fishermen might be reasonably expected to recognize the bay under average conditions.

For the Baie des Chaleurs the line from the light at Birch Point on Miscou Island to Macquereau Point Light; for the bay of Miramichi, the line from the light at Point Escuminac to the light in the eastern point of Tabusintac Gully; for Egmont Bay, in Prince Edward Island, the line from the light at Cape Egmont to the light at West Point; and off St. Ann's Bay, in the province of Nova Scotia, the line from the light at Point Anconi to the nearest point on the opposite shore of the mainland.

For Fortune Bay, in Newfoundland, the line from Connaigre Head to the light on the southeasterly end of Brunet Island, thence to Fortune Head.

For or near the following bays the limits of exclusion shall be three marine miles seaward from the following lines, namely:—

For or near Barrington Bay in Nova Scotia, the line from the light on Stoddart Island to the light on the south point of Cape Sable, thence to the light at Baccaro Point; at Chedabucto and St. Peter's Bays, the line from Cranberry Island light to Green Island light, thence to Point Rouge; for Mira Bay, the line from the light on the east point of Scatari Island to the north-easterly point of Cape Morien; and at Placentia Bay, in Newfoundland, the line from Latine Point, on the eastern mainland shore, to the most southerly point of Red Island, thence by the most southerly point of Marasheen Island to the mainland.

Long Island and Bryer Island on St. Mary's Bay, in Nova Scotia, shall, for the purpose of delimitation, be taken as the coasts of such bays.

It is understood that nothing in these rules refers either to the Bay of Fundy considered as a whole apart from its bays and creeks or as to the innocent passage through the Gut of Canso, which were excluded by the agreement made by exchange of notes between Mr. Bacon and Mr. Bryce, dated February 21, 1909, and March 4, 1909; or to Conception Bay, which was provided for by the decision of the Privy Council in the case of the Direct United States Cable Company v. the Anglo-American Telegraph Company, in which decision the United States have acquiesced.



Canada, 1952  
Standing Order, 1952

HOUSE OF COMMONS

CA1 XC 17  
-H/2

Sixth Session—Twenty-first Parliament, 1952

---

STANDING COMMITTEE

ON

# MARINE AND FISHERIES

*Chairman:* T. G. W. ASHBOURNE, Esq.

---

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

---

TUESDAY, JUNE 10, 1952

---

including

THIRD REPORT TO THE HOUSE

on the

Draft International Convention for the High Seas Fisheries of the  
North Pacific Ocean.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1952

## REPORT TO THE HOUSE

TUESDAY, June 10, 1952.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

### THIRD REPORT

Pursuant to its Order of Reference, your Committee, during the course of eight meetings has examined and inquired into the proposed tripartite international Convention for the High Seas Fisheries of the North Pacific Ocean, and has heard evidence on the said Convention from six witnesses, as follows:

1. Mr. Stewart Bates, Deputy Minister of Fisheries;
2. Mr. C. G. O'Brien, Manager, Fisheries Council of Canada;
3. Mr. K. Fraser, Fisheries Association of British Columbia;
4. Mr. Homer Stevens, Secretary-Treasurer, United Fishermen and Allied Workers' Union, Vancouver, B.C.;
5. Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and
6. Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs.

In addition, the Honourable R. W. Mayhew, Minister of Fisheries, addressed your Committee.

Your Committee wishes to express its appreciation of the help and co-operation of all who were in attendance or made written representations to the Committee.

In its considerations, your Committee had foremost in mind:

1. The immediate and future great importance of this Convention to the Pacific Coast fishing industry in particular, as well as to the Canadian fishing industry as a whole; and
2. The necessity for the conservation and preservation of the fish resources in the light of increasing demands for food sources, advanced fishing methods, and encouraging the greatest possible measure of employment.

Your Committee was also aware of the great importance of further extending improved international co-operation and goodwill so that in the near future such matters as the territorial waters' limits, after thorough study and investigation, may be resolved.

Your Committee, therefore, unanimously recommends that the House do approve the proposed International Convention for the High Seas Fisheries of the North Pacific Ocean, negotiated by Canada, Japan, and the United States of America at Tokyo in December, 1951.

A copy of the Minutes of Proceedings and Evidence of the Committee is appended.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*

## MINUTES OF PROCEEDINGS

TUESDAY, June 10, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Black (*Cumberland*), Bryce, Catherwood, Gibson, Gillis, Leger, Macdonald (*Edmonton East*), MacNaught, McLean (*Huron-Perth*), McLure, Mott, Stuart (*Charlotte*), and Wood.

*In attendance:* Mr. Stewart Bates, Deputy Minister of Fisheries.

The Chairman informed the Committee that advance copies of the printed Minutes of Proceedings and Evidence No. 3 for June 5 had just been received from the Queen's Printer. Copies of same were distributed to members present.

The Committee then proceeded to its final article-by-article consideration of the proposed tripartite International Convention for the High Seas Fisheries of the North Pacific Ocean, including the preliminary matter, annex, and protocol thereto, all of which following discussion thereon, were adopted without amendment.

(At this point, the Committee's proceedings continued *in camera*).

The Chairman presented and read a draft of the Committee's Report to the House on the said Convention, copies of which were also circulated to members present.

Following discussion thereon, on motion of Mr. Leger,

*Resolved*,—That the first line of the paragraph, containing the Committee's recommendation to the House, of the draft Report to the House be amended by inserting the word "unanimously" immediately preceding the word "recommends".

On motion of Mr. Macdonald (*Edmonton East*),

*Ordered*,—That the Chairman present the said report, as amended, to the House as the *Third Report* of the Committee.

The Chairman, on behalf of the Committee, conveyed a unanimous vote of appreciation to Mr. Bates and thanked him for his attendance and assistance to the Committee.

The Chairman also expressed his personal thanks to those associated with the Committee for the co-operation and active interest shown throughout, particularly by members of the Committee, and for their complete and ready assistance in facilitating the Committee's proceedings.

At 11.50 o'clock a.m., the Committee adjourned *sine die*.

A. SMALL,  
*Clerk of the Committee.*



## EVIDENCE

JUNE 10, 1952.

11:00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum. There are two other committees meeting this morning as well as this committee on marine and fisheries; there is a committee on defence expenditures and another committee on banking and commerce; and some of the members of this committee are also members of these other two committees.

The business before the committee this morning is the article-by-article consideration of the convention, the draft International Convention for the High Seas Fisheries of the North Pacific Ocean.

### Article 1:

Mr. APPLEWHAITE: Mr. Chairman, at this stage, when considering the first article of the treaty, I would like the indulgence of the committee in order that I might make a short statement dealing with the treaty as a whole. I think, perhaps, I should say that up to the present we have had witnesses and questions and answers only. I am the only member of the committee who took part in the negotiation of this treaty. While I have no intention whatever of going over all the ground that was gone over so well by Mr. Bates, what Mr. Bates gave was as evidence; what I will be giving the committee, of course, is opinion. I would like just shortly to point out to this committee that on the Pacific Coast over the last period of years we have conserved by regulation our stocks of halibut, herring and salmon. That conservation has meant a great deal of financial expenditure by the dominion government, and it has meant a great deal of supervision and regulation of those engaged in the fisheries industry, involving closed seasons, the application of regulations hampering the freedom of action of the fishermen, quotas, gear sizes and so forth to conserve a steady supply of these species of fish; and these regulations have been loyally lived up to.

There has been for a good many years a fear in all branches of the industry—and when I say all branches I mean just that, investors, those in managerial capacities, those who are actually fishing, and those who have jobs in the fish processing plants—that fear has been that some other country would come into our fisheries which we were conserving and by their exploitation of those fisheries upset our whole conservation program; and that fear came to a head at the end of hostilities with Japan when it was obvious that Japan, a country which would be economically hard pressed, would be free again to fish on the high seas.

This treaty which is before us now is the only possible means of answering that fear immediately, and it does so. It keeps out as from the date of its ratification by all three countries, it keeps out of these fisheries—halibut, herring and salmon—wherever found in the high seas the possibility of Japanese fishing. Granted, there is a 10-year period, but so far as I know there is no treaty of this nature, no commercial treaty, in existence which does not have a time limit; or, alternatively, it has a right of abrogation in it. So we have got by this treaty at least 10 years assured protection for fishing off our coast for these species which, as we have been told, cover 85 to 90 per cent of our total catch in value. That 10 years is there, because 5 years are fixed and the next 5 years can only be varied with the consent of the Canadian representatives on the commission followed by the consent of the government

of Canada, which certainly is not going to be given unless there is ample proof that there are far more fish there than we can possibly use ourselves.

The fear to which I have referred was real and the danger does exist today. Whatever peoples' views may be as to the ideal solution we do know—that we have been told by two legal experts, Mr. Erichsen-Brown and Mr. Ozere that that danger exists today—that in international law we have no right to stop the Japanese getting into these three species up to the three-mile limit off our shores. The alternative suggestion was—and its merits I am not going to discuss—the alternative suggestion is the territorial waters' changes. The changes in our territorial waters are protected by this treaty, specifically protected, and intentionally so. But we all know, surely, that to make a basic change in what would be a section of international law with reference to the Canadian coast is going to take a long time. There has been a lot of talk about it. It would not be possible just for us to say automatically that we are going to take over as purely Canadian territorial waters several thousands of square miles of the Pacific ocean. It may be that we could do it eventually, but we cannot do so immediately. But we can accept this treaty immediately and protect our halibut, our herring and our salmon. And it should be mentioned in that connection that even if we were to extend the Canadian territorial waters to 200 miles from the shores of Canada our halibut and salmon would still be open to depredation by other countries before they get into that area, and there will be no assurance whatever that there will be enough of the species left in our territorial waters to enable us to carry on on anything like the scale we are carrying on now.

As I said, I went over to Japan with the delegation which negotiated this treaty. I can quite honestly say that I can take very little credit for what has been accomplished, but I would like to make it clear to the committee that I am ready to take full blame for anything that has been accomplished because I honestly believe that we have reached the only agreement which would be effective, which it was possible for us under the circumstances to reach in the interest of our fisheries; and I say with regret but with sincerity that I feel that those who are working against the ratification of this treaty are not working in the interests of any branch of the fishing industry. No doubt their motives are of the best but they do not realize what would follow our accepting their suggestions that this treaty be discarded, which I honestly feel would result in a great calamity to the rich fishing industry of the Pacific coast, a calamity which most likely would result in the exhaustion of these fisheries within two or three years at the outside.

I would just like to add, in support of this treaty, that I would ask the committee to believe my sincerity in this matter. I am not speaking from any sense of personal pride or of the necessity to defend something that I have done; but because I have the sincere conviction that we have through this treaty reached the best possible solution to our immediate difficulty that could be obtained.

The CHAIRMAN: Shall Article I carry?

Carried.

Article II?

Mr. BLACK: I suppose we should have someone explain the treaty there; or is it the case that we have to accept all of it or none of it. Should we not have the Article read?

The CHAIRMAN: I presume the honourable member would like to have the treaty read or consider it article-by-article. As to the matter of accepting or not accepting the treaty, that will be a matter for consideration by the committee as a whole after the treaty has been considered article-by-article. The reason I am calling the articles is so that members may be able to address

any remarks which they wish, to the particular article; or, if the committee decides it would prefer, and think it in order, I am quite prepared to ask now whether the whole treaty would be acceptable.

Mr. BLACK: I think it would be wise to have it read section by section so that we could understand it. Perhaps Mr. Applewhaite might tell us what article was objected to?

Mr. APPLEWHAITE: I think it would be fair to say, Mr. Chairman, that no particular section of this treaty had been picked out for objection. Those who did oppose the treaty are of the opinion that instead of making a treaty of this sort at all we ought to have done the same thing by extending our territorial waters, and while making that suggestion they did not define just what they meant, they suggested something like 150 or 200 miles off-shore being held for our exclusive use, that that would be the best solution. I do not want to misinterpret my opponents, but I think that is the gist of their whole objection.

Mr. LEGER: What is the present territorial water limit, 3 miles from the coast?

The CHAIRMAN: Would you speak a little louder, please, Mr. Leger?

Mr. LEGER: What is the present limit of territorial waters as far as Canada is concerned?

The CHAIRMAN: I might say, gentlemen, in this connection regarding territorial waters' limits, the minutes of proceedings and evidence number 3 has just come to hand and I would ask Mr. Small, our clerk, if he would distribute them to the members personally. The other members will get them through the mail.

Mr. GILLIS: I want to ask a question of Mr. Applewhaite as one of the men who was present when this convention was being drafted. As I understand it, this convention is only applicable to the nations who were represented and are included in the treaty. Now, supposing Russia decides to send a fleet into these waters for fishing purposes and is not included in this convention, how would you handle that problem; would she be unrestricted and allowed to fish on the high seas contrary to the conservation program which has been laid down here?

Mr. APPLEWHAITE: We foresaw that difficulty with reference to almost any country and therefore it was put in the treaty that should some non-contracting party enter into these fisheries to such an extent that the situation was disrupting the scheme the governments would get together and decide what would be done. In other words, in negotiating this treaty we left it wide open to the three governments themselves to agree on the type of action to take. That is included right here in the treaty, in Article VI.

Mr. GILLIS: That is, at the present time under the terms of this treaty, you can do nothing to prevent except by entering into negotiations under Article VI of this treaty.

Mr. APPLEWHAITE: We had some authority to bind our own governments with respect to each other but we had—perhaps I should say we had no authority to bind our governments with respect to Mexico or Russia or South American countries.

Mr. GILLIS: I mentioned Russia because there is the possibility of their coming in there—you assumed that was a situation which might develop?

Mr. APPLEWHAITE: Yes, we did provide for it to this extent, that the three governments have agreed, contracted, that if one brings that situation to the attention of the others that they would get together on it.

The CHAIRMAN: Was the answer given by Mr. Applewhaite satisfactory to you, Mr. Black?

Mr. BLACK: I suppose so, but to my mind, the reading of the sections gives a better understanding of this proposed treaty.

The CHAIRMAN: Shall article II carry?

Carried.

Article III:

Mr. BLACK: Under this article, is that to be taken as preventing them from fishing in these waters?

Mr. APPLEWHAITE: For these species.

The CHAIRMAN: Yes, with respect to certain species.

Mr. BLACK: It was not intended to stop them from fishing for other species in these waters? Are they likely to come in and clean up on other fish?

Mr. APPLEWHAITE: We do not know what their intention is. They would have the legal right to fish for flat fish in waters off the Canadian coast provided it would be beyond our territorial limits.

Mr. LEGER: That would mean outside the 3-mile limit.

Mr. APPLEWHAITE: Yes, or any other territorial waters for which a limit may be set in future.

Mr. LEGER: Yes.

The CHAIRMAN: Shall Article III carry?

Carried.

Articles IV to XI inclusive, the Annex, Protocol, and Preamble carried.

The CHAIRMAN: Shall I report the convention to the House?

Agreed.

The next matter, gentlemen, will be consideration of the draft report to the House. I think on this occasion that will be a matter for discussion off the record.

(Committee continues its sitting *in camera*).

Gov. Doc  
Can  
Com  
M

HOUSE OF COMMONS  
Seventh Session—Twenty-first Parliament  
1952-53

---

STANDING COMMITTEE

ON

MARINE AND FISHERIES

*Chairman:* T. G. W. ASHBOURNE, Esq.

---

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

---

FRIDAY, FEBRUARY 6, 1953

MONDAY, FEBRUARY 9, 1953

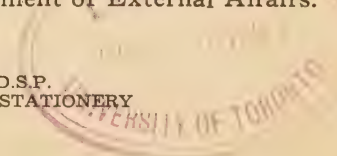
---

Bill No. 44 (Letter E of the Senate),  
An Act to Protect the Coastal Fisheries

WITNESSES:

Mr. Stewart Bates, Deputy Minister, Department of Fisheries;  
Mr. G. R. Clark, Assistant Deputy Minister, Department of Fisheries;  
Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries;  
Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1953



STANDING COMMITTEE  
ON  
MARINE AND FISHERIES

*Chairman:* T. G. W. Ashbourne, Esq.

*Vice-Chairman:* A. W. Stuart, Esq.

Messrs:

Applewhaite	Gillis	MacLean ( <i>Queens</i> )
Arsenault	Harrison	MacNaught
Balcom	Henderson	Maltais
Bennett	Higgins	McLean ( <i>Huron-Perth</i> )
Black ( <i>Cumberland</i> )	James	McLure
Blackmore	Kirk ( <i>Antigonish-</i> <i>Guysborough</i> )	Mott
Breton	Langlois ( <i>Gaspé</i> )	Pearkes
Cannon	Leger	Robichaud
Catherwood	Macdonald ( <i>Edmonton</i> <i>East</i> )	Stick
Côté ( <i>Metapedia-Matane</i> )	MacInnis	Thomas
Fulford		Wood
Gibson		

(Quorum—10)

A. SMALL,  
*Clerk of the Committee.*

## ORDERS OF REFERENCE

HOUSE OF COMMONS,  
MONDAY, January 12, 1953.

*Resolved*—That the following Members do compose the Standing Committee on Marine and Fisheries:—

Messrs.

Applewhaite	Gibson	MacInnis
Arsenault	Gillis	MacLean ( <i>Queens</i> )
Ashbourne	Harrison	MacNaught
Balcom	Henderson	Maltais
Bennett	Higgins	McLean ( <i>Huron-Perth</i> )
Black ( <i>Cumberland</i> )	James	McLure
Blackmore	Kirk ( <i>Antigonish-</i>	Mott
Breton	<i>Guysborough</i> )	Pearkes
Cannon	Langlois ( <i>Gaspé</i> )	Robichaud
Catherwood	Leger	Stick
Côté ( <i>Metapedia-Matane</i> )	Macdonald ( <i>Edmonton</i>	Stuart ( <i>Charlotte</i> )
Fulford	<i>East</i> )	Thomas
		Wood—35.

*Ordered*—That the Standing Committee on Marine and Fisheries be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon, with power to send for persons, papers and records.

FRIDAY, January 30, 1953.

*Ordered*,—That the following Bill be referred to the said Committee:—

Bill No. 44 (Letter E of the Senate), intituled: "An Act to Protect the Coastal Fisheries".

FRIDAY, February 6, 1953.

*Ordered*,—That the said Committee be empowered to print, from day to day, 750 copies in English and 200 copies in French of its Minutes of Proceedings and Evidence and that Standing Order 64 be suspended in relation thereto.

*Ordered*,—That the said Committee be granted leave to sit while the House is sitting.

TUESDAY, February 10, 1953.

*Ordered*,—That the name of Mr. Browne (*St. John's West*) be substituted for that of Mr. Catherwood on the said Committee.

*Attest.*

LÉON J. RAYMOND,  
Clerk of the House.

## REPORT TO THE HOUSE

FRIDAY, February 6, 1953.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

## FIRST REPORT

Your Committee recommends:

1. That it be empowered to print, from day to day, 750 copies in English and 200 copies in French of its Minutes of Proceedings and Evidence and that Standing Order 64 be suspended in relation thereto.

2. That it be granted leave to sit while the House is sitting.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*

## MINUTES OF PROCEEDINGS

FRIDAY, February 6, 1953.

The Standing Committee on Marine and Fisheries met at 11:00 o'clock a.m. this day for organization purposes. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Bennett, Black (*Cumberland*), Cannon, Catherwood, Côté (*Matapedia-Matane*), Fulford, Gibson, James, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacNaught, McLure, Mott, Pearkes, and Stick.

The Chairman thanked the Committee for the honour again conferred on him and informed the members present of the business referred by the House to the Committee; namely, Bill No. 44 (Letter E of the Senate), intituled: "An Act to Protect the Coastal Fisheries", copies of which were distributed to members present.

On motion of Mr. Balcom,

*Resolved*,—That Mr. Stuart (*Charlotte*) be Vice-Chairman of the Committee.

On motion of Mr. Fulford,

*Resolved*,—That permission be sought to print, from day to day, 750 copies in English and 200 copies in French of the Minutes of Proceedings and Evidence.

On motion of Mr. Bennett,

*Resolved*,—That a Sub-Committee on Agenda and Procedure, comprised of the Chairman and 6 Members to be named by him, be appointed.

On motion of Mr. Mott,

*Resolved*,—That permission be sought to sit while the House is sitting.

Following a brief discussion on its future programme, on motion of Mr. Applewhaite the Committee adjourned at 11:10 o'clock a.m. to the call of the Chair.

MONDAY, February 9, 1953.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Black (*Cumberland*), Catherwood, Gibson, James, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacLean (*Queens*), MacNaught, McLean (*Huron-Perth*), McLure, Pearkes, Robichaud, Stick and Stuart (*Charlotte*).

*In attendance:* Hon. James Sinclair, Minister, Mr. Stewart Bates, Deputy Minister, Mr. G. R. Clark, Assistant Deputy Minister, Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs.

The Chairman announced the names of members of the Sub-Committee on Agenda and Procedure to act with him thereon, namely: Messrs. Applewhaite, MacInnis, MacNaught, Pearkes, Stuart (*Charlotte*) and Thomas.

The Chairman presented and read the First Report of the Sub-Committee on Agenda and Procedure which is as follows:—

FRIDAY, February 6, 1953.

Your Sub-Committee met on February 6th and has agreed to recommend as follows:

That the following persons be called to appear before the Committee at 11.00 o'clock a.m., Monday, February 9, 1953: Mr. Stewart Bates, Deputy Minister, Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and an official from the Department of External Affairs.

On motion of Mr. Applewhaite.

*Resolved*,—That the First Report of the Sub-Committee on Agenda and Procedure be now concurred in.

The Committee proceeded to its consideration of Bill No. 44 (Letter E of the Senate), An Act to Protect the Coastal Fisheries.

The Hon. James Sinclair addressed the Committee, giving a statement on territorial waters.

During the course of this sitting, the Committee called, heard, and questioned Messrs. Bates, Clark, Ozere, and Erichsen-Brown, and made the following progress on the Bill:

Clauses 1 to 6 inclusive were severally considered and adopted.

On Clause 7:

After discussion and questioning thereon, the Clause was allowed to stand.

At 1.05 p.m., the Committee adjourned until 11.00 a.m., Friday, February 13.

A. SMALL,  
*Clerk of the Committee.*

## EVIDENCE

FEBRUARY 9, 1953.

The CHAIRMAN: Order. I see a quorum present. I would like to announce the names of the members of the sub-committee on agenda and procedure acting with me. They are Messrs. Applewhaite, MacInnis, MacNaught, Pearkes, Stuart and Thomas.

I have the honour to present the first report of the sub-committee. (*See Minutes of Proceedings*).

This report is now before you for adoption.

Mr. APPLEWHAITE: I move the adoption of the report.

Mr. GIBSON: I second the motion.

The CHAIRMAN: It has been moved by Mr. Applewhaite and seconded by Mr. Gibson that this report be now concurred in. Are you ready for the question? Shall the motion carry?

Carried.

I am glad this morning to see that we have from the Department of Fisheries the Minister, the Honourable James Sinclair, and also Mr. Stewart Bates, the Deputy Minister, and Mr. S. V. Ozere, Director of Legal Service, and, from the Department of External Affairs, the Legal Division, Mr. J. P. Erichsen-Brown. We are very glad to have these gentlemen with us this morning and we shall be glad to have statements from them.

Clause 1.

1. This Act may be cited as the *Coastal Fisheries Protection Act*.

Mr. McLURE: Mr. Chairman, before going on with this, I have just passed a note to Mr. MacNaught and I was wondering if I could get a little advice on it. I think that Mr. MacNaught gave some advice on the matter before, but I did not happen to be here at the time.

Mr. MACNAUGHT: Mr. Chairman, I presume that this has some reference to the question which was asked by Mr. Robichaud in the House. At that time the Minister said our officials were keeping a close watch on it, and that when we have anything specific to report, a statement would be made in the House. We have nothing further to report on it. Perhaps, Mr. Bates could let us know if we have any recent information on the efforts of a private member to introduce an Act in relation to Fisheries in the State House of Massachusetts.

Mr. Stewart BATES (Deputy Minister of Fisheries): Mr. Chairman, we understand that the hearing in the United States has been postponed until the 11th of March. We have nothing further to report.

The CHAIRMAN: Now, gentlemen, we would be pleased if the Hon. Mr. Sinclair would come forward and make his statement to the committee.

Hon. Mr. SINCLAIR: Mr. Chairman and gentlemen, I followed the debate in the House, but I was not there for the very end of it because I had to go to Newfoundland. Mr. MacNaught was conducting the bill through but in the debate there was one question on which I think a statement of government policy should be made. It was this matter of territorial waters to which most of the debate related.

We have had such debates on previous occasions when fisheries bills were up. The desire of most fishermen in Canada is understandable, that our territorial waters be extended out as far as possible to preserve the inshore fisheries.

There have been suggestions about extending it to 12 miles, and even to the continental shelf. There was some discussion upon it in the debates of 2 or 3 years ago when a declaration was made by the President of the United States at that time, President Truman. His action was debated. It had a statement which was sometimes misunderstood, that the Americans would exercise legal authority over fisheries out to the continental shelf. My recollection was that this was very quickly followed by such action on the part of South American countries, and there was violent protest by many countries as to these restrictions by certain South American states, saying that they were interested in conservation out to the continental shelf.

The second development, however, in recent years, has been the decision of the International Court on the dispute between Norway and Great Britain as to where the line should be drawn. The Norwegians in general claimed that it was from headland to headland, not following the contours of the shore. The British challenged this in the case, and the Norwegians won.

This was immediately followed by action taken by other countries, notably Iceland, and it is easy to see how unilateral action taken by one country can have effects which are not dreamed of when that action is taken.

Iceland, in general, decided to outline her boundaries from headland to headland, the main corners, so to speak, of the country. Iceland is rather horseshoe shaped and they decided to run their territorial lines around the country in as simple a line as possible, including very large areas as part of their territorial waters.

The British, I think, have not yet taken that matter to the International Court, but the British trawlers have removed themselves from that area. The repercussions were immediate. While the British Government has yet to take any action, the port facilities in the principal fishing ports have been denied to Icelandic fishing boats, and some of the long shoremen's trade unions have refused to unload Icelandic boats. As a consequence, Iceland has been cut off from a major market for its fish, namely, the British market.

This has been reflected even as far as Canada, because Iceland had to look elsewhere for markets, and in their search they included the American market in which they had very little interest up to this time, up to the time this situation developed. But in the last few years, exports of fresh and frozen fish from Iceland to America have increased from 5 million pounds to about 35 million pounds a year. Normally our fishing fleets would expect to get the bulk of that increase. However, while we have held our own in the American market, we are finding the competition of this Icelandic fish very difficult.

I have used that as an example of what happens when one country, by itself, tries to alter international law.

As British people, we have long experienced the freedom of the seas, which has meant freedom up to 3 miles from the other countries' shores. Now, if arbitrarily, and without any international discussion, we were to extend our limits out to the continental shelf, we would be in the position of having to try to enforce such a law against the people who may have historical interests in such waters. That is especially true of the eastern coast where, since 1498 at least, the peoples of Britain, France, and Portugal have been fishing.

I have, actually, a formal statement which sums the thing up.

Definition of territorial waters is a complex question, affecting as it does, many interests at home and abroad. Last year's judgment of the International Court of Justice in the fisheries dispute between the United Kingdom and Norway, has provoked a study of this question and re-examination of the

principles underlying international practice in respect of territorial waters. The government agencies of many countries with maritime interests are re-examining their policies on this subject, as a result of this decision of the International Court.

Some countries, hastily—perhaps too hastily—have attempted to apply the principles which they thought the judgment in the United Kingdom-Norway dispute announced. Iceland was one of those countries which I have just mentioned. Most governments, however, including ourselves, are proceeding more cautiously because of the complexity of the problems involved. We are however giving very serious thought to these problems. At present, an inter-departmental committee representing government interests of a number of government departments and agencies concerned, is studying the implications of the judgment of the International Court as well as the more recent international developments because of that judgment. The committee is being assisted in its labours by Professor George Curtis, Dean of the Faculty of Law of the University of British Columbia, engaged by the government as its legal advisor.

When the committee makes its report, the government will be in position to act, if it decides to make any adjustments in the delineation of territorial waters in so far as Canada is concerned.

And here is the important part which gives the relationship of this committee to the bill which is now before us.

The bill before you gives the Governor in Council the power to designate territorial waters. It does not itself alter the practice as to territorial waters. The practice we have followed is continued, but it does provide authority to change the practice if it is ever decided by the government to do so.

If, as a consequence of the steps taken by our government and other governments international action should result in a change of the present territorial boundaries, this bill would cover the new situation as well as it covers the present situation. That is the only statement I wanted to make on this bill. It was a statement, I knew, of very much concern, because every member is interested in this matter.

MR. PEARKES: Yes, Mr. Chairman, and it is of concern to every nation which is interested in fishing.

HON. MR. SINCLAIR: Each nation has the same concern; it would like to extend its territorial waters for some sorts of fishing; it would like to keep the coastal waters in which their fishermen had been engaging, within its own national boundary.

MR. KIRK: The Minister mentioned certain countries having fished since away back in 1498. Had that been done by agreement, or was it just sort of squatting?

HON. MR. SINCLAIR: It was the old principle of the freedom of the seas; the seas were there as well as the Indians.

MR. ROBICHAUD: There was no Canada then.

HON. MR. SINCLAIR: There was no Canada as such. There were various Indian tribes down in Nova Scotia; but I do not believe there were many Indians in Newfoundland.

MR. KIRK: But there was no agreement.

HON. MR. SINCLAIR: Very severe wars were fought in Newfoundland for the control of the fishing, and the shore fishing passed from one nation to another until the British established their sovereignty over it; and even that sovereignty was affected by the last treaty of 1904 with the French.

MR. STICK: I have it here and I shall be making a statement in a moment.

HON. MR. SINCLAIR: The French and the Americans still have certain rights on the Newfoundland coasts; but fishing on the Grand Banks is probably a very

good example of the fact that in the background the British, in respect to having freedom of the seas, as do many nations, feel that they have a historic right in the fisheries which are not within our 3 mile limit, but which may be upon our continental shelf. On the west coast, fisheries in the Hecate Strait have been exploited by the Americans and ourselves for many years and are within that category. But I suppose that most national fisheries in the world today are fishing off the east coast and the Grand Banks, which, for almost 400 years, have been exploited by at least 4 or 5 nations, and more recently by 9 nations.

The CHAIRMAN: Thank you very much Mr. Sinclair.

Mr. STICK: Mr. Chairman, this bill affects Newfoundland in a very special way. As you all know, Newfoundland was founded on the fisheries and the fisheries have been in existence, as Mr. Sinclair has said, since about 1498. This bill, which empowers the government to extend the limits of our protection beyond the more or less 3-mile limit, is something I think should be gone into by the committee rather thoroughly, and I would like this morning, if I may take up the time of the committee briefly, to quote something of the nature of this bill which will affect the fisheries in Newfoundland. As the minister has said, the matter of the territorial waters is not clearly defined yet by international law. Something has been done along those lines, but it is not conclusive yet, and I want to quote now from a report of the Permanent Court of Arbitration at The Hague dealing with the North Atlantic Coast fisheries:

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof, to take, dry and cure fish on certain coasts, bays, harbours and creeks of His Britannic Majesty's Dominions in America, it is agreed between the high contracting parties, that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly on the southern coast of Labrador, to and through the Straits of Belleisle and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen shall also have liberty forever, to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground.—And the United States hereby renounce forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on, or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's Dominions in America not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

That was the question before The Hague court.

Mr. APPLEWHAITE: What was the date of that arbitration?

Mr. STICK: The 20th day of October, 1818—Convention signed at London between Great Britain and the United States on the 20th day of October, 1818. That was the first. That dispute was taken before The Hague court, and now I will read the judgment. The judgment of the court at The Hague was as follows:

In case of bays the three marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the three marine miles are to be measured following the sinuosities of the coast.

But considering the Tribunal cannot overlook that this answer to Question V, although correct in principle and the only one possible in view of the want of a sufficient basis for a more concrete answer, is not entirely satisfactory as to its practical applicability, and that it leaves room for doubts and differences in practice. Therefore the Tribunal considers it its duty to render the decision more practicable and to remove the danger of future differences by adjoining to it, a recommendation in virtue of the responsibilities imposed by Art. IV of the Special Agreement.

Considering, moreover, that in treaties with France, with the North German Confederation and the German Empire and likewise in the North Sea Convention, Great Britain has adopted for similar cases the rule that only bays of ten miles width should be considered as those wherein the fishing is reserved to nationals. And that in the course of the negotiations between Great Britain and the United States a similar rule has been on various occasions proposed and adopted by Great Britain in instructions to the naval officers stationed on these coasts. And that though these circumstances are not sufficient to constitute this a principle of international law, it seems reasonable to propose this rule with certain exceptions, all the more that this rule with such exception has already formed the basis of an agreement between the two powers.

Now therefore this Tribunal in pursuance of the provisions of Art. IV hereby recommends for the consideration and acceptance of the high contracting parties the following rules and method of procedure for determining the limits of the bays hereinbefore enumerated.

1.

In every bay not hereinafter specifically provided for the limits of exclusion shall be drawn three miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

2.

In the following bays where the configuration of the coast and the local climatic conditions are such that foreign fishermen when within the geographic headlands might reasonably and *bona fide* believe themselves on the high seas, the limits of exclusion shall be drawn in each case between the headlands hereinafter specified as being those at and within which such fishermen might be reasonably expected to recognize the bay under average conditions.

And then it goes on to specify certain bays. I won't put that on record.

For Fortune Bay, in Newfoundland, the line from Connaigre Head to the light on the southeasterly end of Brunet Island, thence to Fortune Heads.

And then it goes on further, and this is the final part:

It is understood that nothing in these rules refers either to the Bay of Fundy considered as a whole part from its bays and creeks or as to the innocent passage through the Gut of Canso, which were excluded by the agreement made by exchange of notes between Mr. Bacon and Mr. Bryce dated February 21, 1909, and March 4, 1909; or to Conception Bay, which was provided for by the decision of the Privy Council in the case of the *Direct United States Cable Company v. The Anglo American Telegraph Company*, in which decision the United States have acquiesced.

The CHAIRMAN: Would you be good enough, Mr. Stick, to tell us the title of the book from which you are reading?

MR. STICK: Session Papers, Vol. XLV, No. 24, 1911.

MR. CHAIRMAN, I would now like to quote from Digest of International Law by Hackworth, Volume I, Chapters I-V, page 628, in connection with the same subject:

Various points of view with reference to the breadth of the territorial waters were expressed provisionally or in principle in the second committee of the Conference for the Codification of International Law held at The Hague in 1930, at its thirteenth meeting held on April 3. The delegates of certain states were in favour of the acceptance of the principle of a zone on the high sea contiguous to the territorial sea in which the coastal state would be able to exercise certain control. The views as expressed in the meeting of April 3 on these subjects were summarized as follows: Union of South Africa, 3 miles; Germany, 3 miles; United States, 3 miles; Belgium, 3 miles; Great Britain, 3 miles, Canada, 3 miles, Chile 6 or 3 miles; China, 3 miles; Colombia, 6 miles;

Cuba, 6 miles; Denmark, 3 miles; Spain, 6 miles; Finland, 4 miles—and perhaps what is more important to us in Newfoundland—

Italy, 6 miles; Poland, 3 miles; and Portugal, 12 or 6 miles.

So you will see generally from this that the matter has not been finally settled yet. Some countries favour 6 and 12 miles, but most of them favour the 3 mile limit, and it is very interesting that Portugal favours 12 miles, and, as you know the Portuguese have been fishing in Newfoundland waters for centuries, and I think if we ever make an agreement with them we can use that as a basis for an agreement making it 12 miles.

I want to quote now from a book by H. A. Smith entitled "Great Britain and the Law of Nations", at page 131:

The question of the breadth of a bay arose in the North Atlantic Fisheries Arbitration at The Hague in 1910. The Tribunal there decided that, in the case of a bay, the belt of territorial waters must be measured from a line drawn across the body of water at the place where it ceased to have the configuration and characteristics of a bay. Realising that this decision would in practice be insufficient to define the rights of the parties and to prevent future difficulties with regard to the fisheries, the Tribunal, basing itself on various treaties in respect of fisheries to which Great Britain was a party, recommended that in general the base line should be drawn across the bay in the part nearest the entrance or mouth at the first point where the width did not exceed ten miles.

The recommendations of the Tribunal were accepted by both parties to the dispute and have since been enforced in the area to which they apply.

His Majesty's Government in Great Britain believe that it is logical to restrict the application of the special rule as to bays, under which the base line is drawn across the mouth of the bay, to cases where the bay is not more than six miles wide at the mouth, as it is only in these cases that the bay is wholly enclosed by the two belts of territorial waters measured from the opposite shores. It may be argued, however, that no such rule has as yet met with universal acceptance, and, therefore, if a rule similar to the recommendations of the Tribunal in the North Atlantic Fisheries Arbitration and to the rule adopted in some of the fishery treaties to which Great Britain is a party met with the general acceptance, they would be prepared to consider it.

By general acquiescence, certain historic bays have been recognized as forming part of the national territory, even though their width exceeds that indicated in the earlier part of the answer on this point. In the case of such bays, the territorial waters are measured from a base line passing across the bay at the place recognised as forming the limits of the national territory.

In the case of bays whose coasts belong to two or more States, the territorial waters are measured from low water and follow the sinuities of the coast.

(c) In front of ports, the base line from which the territorial waters are measured passes across the entrance from the outermost point or harbour work on one side to the outermost point or harbour work on the other side.

The word 'port' in this connection is used in its ordinary physical or geographical sense without reference to special definitions of the areas of particular ports which may be laid down in the Customs legislation of a country.

Now, Mr. Chairman, I could go on quoting further other authorities, but I think I have read enough in order to show this committee that this matter of jurisdiction within territorial waters is something that has not been fully defined by the Court of International Law at The Hague, and there is a difference of opinion amongst the nations even yet as to what should be the limit of control. As you know, during the days of prohibition in the United States in what was commonly called "Rum Row", the rum runners anchored their boats off the 3-mile limit and they were secure from interference by or from United States coastal authorities. That situation did not prove to be satisfactory and the United States extended that limit to 12 miles, and that was carried out and there was no protest, that I know of, from any other nation to the United States for doing that. So we have that precedent set by the United States of extending their control during the prohibition era to 12 miles. It would seem to me that in some cases the 3-mile limit is not sufficient to protect the fisheries of Canada, and I think the whole matter should be gone into very, very carefully so that before any rules or regulations are made in connection with agreements already reached with the United States and other countries regarding fishing rights in Newfoundland, that the whole matter should be gone into thoroughly and that nothing will be done that will not be for the benefit of our fisheries. Personally, I am in favour of extending the 3-mile limit, as I think that limit is not enough or sufficient to protect our fishermen. Fishing boats from Newfoundland will go beyond three miles to get the fish, and we think that going beyond the three miles is within our jurisdiction and territory because we have been fishing on those grounds for decades.

I think this bill as a whole is something which is desirable, and if there is any dispute and if we can make any arrangement with Portugal and other

nations who fish in our waters whereby we can in an amicable way get jurisdiction beyond the 3-mile limit, it should be done, and I think it is desirable. I think what applies to Newfoundland applies also to British Columbia, and also to Nova Scotia and New Brunswick and, for that matter, to parts of the coast of Quebec. It is for those reasons and to clarify the situation that I have quoted the authorities I have, and I hope it will receive consideration by the committee.

The CHAIRMAN: Mr. Pearkes, have you something to say?

Mr. PEARKES: All I wanted to say is that I am pleased to hear that this special committee is continuing its investigation. We were informed during the last session of parliament that the committee had been established, and I am sure that everybody will await their report, which will be of interest on the Pacific coast. People on the Pacific coast think the time is particularly opportune to make a declaration regarding the extent of our fishing zones or territorial waters, which many people think should include Hecate Strait and Queen Charlotte Sound. The time is opportune because up to now fishing vessels of no other country, with the exception of the United States, have actually fished those waters. The fishing fleets of countries fishing in the Pacific ocean are increasing and the type of vessel that they are using is getting larger, so that the amity which exists today may not exist many more years, and it is for that reason we feel action should be taken as soon as possible. Now, there may be a difference between declaring a fishing conservation zone and actual territorial waters, and it is more a declaration of a fishery conservation preserve rather than a declaration as to territorial jurisdiction over waters such as the Hecate Strait and the offshore waters of Vancouver Island as territorial waters, for customs and excise services. That is the sort of thing the fishermen on the west coast are particularly interested in.

The CHAIRMAN: No doubt the importance and the urgency of the matter will be considered by the committee and by the government as outlined here by the Hon. Minister of Fisheries this morning.

Are there any other questions members wish to address to the minister?

We wish to thank you, sir, and would be glad if you could still remain here; that is, if you have the time available to do so. In the meantime we would be glad to hear from Mr. Stewart Bates, the Deputy Minister. I understand he is to make a statement.

Mr. STEWART BATES: I do not think there is anything to add to the statement made by the Parliamentary Assistant to the Minister when the Bill came before the house for its second reading.

Mr. APPLEWHAITE: I wonder, just for the record, if the Deputy Minister would put on to the records of this committee a brief statement as to the application of this Act on the Pacific coast, with reference to our reciprocal port treaty; just outline the situation as between ourselves and the Americans, as part of the record of this committee.

Mr. BATES: Mr. Chairman, the bill makes the coverage quite plain in section 3 of the Act, if I may be allowed to read it.

3. (1) No foreign fishing vessel shall enter Canadian territorial waters for any purpose unless authorized by

- (a) this Act or the regulations,
- (b) any other law of Canada, or
- (c) a treaty.

The reciprocal port privilege treaty with the U.S.A. would be covered by that item 3 (c). In short, American halibut vessels now covered by the reciprocal port treaty would still be conceded these rights.

Mr. APPLEWHAITE: Could you just give us a brief summary of what the existing treaty does cover?

Mr. STEWART BATES: The reciprocal port treaty was signed in Ottawa in 1950. It covers only halibut fishing vessels. Articles I and II of that relate to the point raised by the honourable member:

#### Article I

Fishing vessels of the United States of America engaged in the North Pacific halibut fishery only shall, subject to compliance with applicable customs, navigation, and fisheries laws of Canada, have the privileges in the ports of entry of Canada:

(1) to land their catches of halibut and sable-fish without the payment of duties and

(a) sell them locally on payment of the applicable customs duty;

(b) trans-ship them in bond under customs supervision to any port of the United States of America; or

(c) sell them in bond for export, and

(2) to obtain supplies, repairs, and equipment.

Article 2 covers Canadian fishing vessels in United States ports and is identical.

Mr. GIBSON: May I ask, Mr. Chairman, if the American fishing conducted in the Hecate Strait and in Queen Charlotte Sound is a matter of treaty or is done merely by historic rights that they fish there?

Mr. BATES: There is no treaty, Mr. Chairman. I presume one might say it is done by historic right, since they have fished there for quite a long period.

Mr. GIBSON: Is it your opinion, Mr. Bates, that the Japanese would not have that same historic right?

Mr. BATES: That is true.

Mr. GIBSON: Is that sufficient protection, to your mind, and does it back up the suggestion that we should make this declaration as soon as possible?

Mr. BATES: I think, Mr. Chairman, as to the question of the Hecate Strait and whether or not it can be declared territorial waters, that it is very much one of the prior considerations of the committee which has been set up. I would not like to say anything, sir, in the light of the present consideration being given to it by the committee.

Mr. GIBSON: Is it your feeling, Mr. Bates, that this committee would be well advised to wait until the matter has been given consideration by that committee? Do you think that that committee would be more competent to judge the matter than we would be? I presume they would have their lawyers and all the background of international law on which to base their decision.

Mr. BATES: Yes, sir. The purport of the minister's statement this morning is to that effect, that questions of territorial waters in either case are presently under very detailed consideration and that when that committee has reported to the government, then both the government and the officers attached thereto will be able to give to this committee much fuller information on the question of territorial waters, and, perhaps at some stage outline government policy. But until it is reported, we prefer to leave matters as they stand now, the status quo.

The CHAIRMAN: I would like to say that on Saturday I communicated with the Minister of External Affairs and he has very kindly arranged for Mr. Erichsen-Brown to be with us this morning, and I think we will be glad to hear from him. Therefore would he kindly take a seat at the head table. I

would like also to indicate that both Mr. Ozere, the Director of Legal Service of the Department of Fisheries, and Mr. Erichsen-Brown would be glad to answer any questions which you would like to ask them.

Mr. KIRK: Mr. Chairman, from time to time we hear the continental shelf referred to. May I ask if it is related in any way to what are described as territorial waters in the country, or to what?

The CHAIRMAN: Perhaps Mr. Ozere would answer your question.

Mr. OZERE: Mr. Chairman, on the question of the continental shelf, there has been a certain amount of confusion. Generally when we speak of the continental shelf and speak of extending our jurisdiction over areas of the continental shelf, we have reference to the sub-soil resources in the continental shelf rather than to the waters over it.

In 1945 President Truman made two declarations on a statement of policy of the United States Government. One of those declarations related to the continental shelf in which the United States claimed sovereignty over the sub-soil resources in the continental shelf and at the same time made it very clear that the character of the waters above it remained unaffected.

So far as fisheries are concerned, his statement referred to the establishment of fisheries conservation zones which is something entirely different. There may be some reference, some factual reference to some connection between fisheries of the continental shelf, in that fish usually breed in the areas of the continental shelf. There have been some advocates in favour of extending territorial jurisdiction over the areas of the continental shelf for the purpose of fisheries conservation. So far I have no knowledge of anyone having asserted any jurisdiction over the areas of the continental shelf for the purposes of fishing, outside of several Latin American countries, and this assertion which has been disputed by the United States and other countries who have an interest in those areas.

Mr. STICK: Is there any dispute, as such, over that statement by President Truman in the light of jurisdiction over the soil in the continental shelf? Was there any protest by any other country?

Mr. OZERE: I have no knowledge of that, sir. I do not think there has been. Actually, the whole problem has been studied by a committee of the United Nations. The government has also been asked for certain comments on this question, and I think the question is being studied by our Department of External Affairs. Perhaps Mr. Erichsen-Brown might say a word as to that.

Mr. STICK: Did not the reason for President Truman's declaration have to do with the rights to oil out there beyond the 3-mile limit?

Mr. OZERE: Yes, I think it did.

Mr. STICK: That was the basis of his statement

Mr. OZERE: I think that was the principal purpose.

Mr. STICK: Thank you.

The CHAIRMAN: Shall clause 1 carry?

Carried.

Clause 2:

Shall clause 2 carry?

Mr. STUART: No, Mr. Chairman. I would like to refer to paragraph (i) in clause 2 where it says:

(i) "Protection Officer" means

- (i) a fishery officer within the meaning of the *Fisheries Act*,
- (ii) an officer of the Royal Canadian Mounted Police,
- (iii) any commissioned officer of the Royal Canadian Navy, or
- (iv) any person authorized by the Governor in Council to enforce this Act.

And then in connection with sub-paragraph (iii) I wanted to ask this: It would appear to me that junior officials might be given an enormous amount of authority under that particular section. Could you define for us just exactly what is meant by paragraph (i), and who that would include within the Department of Fisheries? It states the Royal Canadian Mounted Police and so on. But what officers in your employ would have authority to invoke paragraph (iii)? That seems to me pretty broad. I am interested in this because, in the particular section of New Brunswick from which I come, we have hundreds of American boats coming over the border every day. They come in to buy Canadian sardines, lobsters and other Canadian fish; and there might be some minor infraction of these regulations. I should not mention section 3; but in section 3 they would be put to great inconvenience. Therefore, who, in your department, would have authority to make these seizures and the like?

Mr. BATES: As you are aware, we have in the department a large number of so-called fishery officers, and the majority of them are stationed on shore. The only part covered here would be that of the patrol boats which are patrolling the international boundary along the 3-mile limit. In other words, it would be the masters of the patrol vessels who would be most involved.

Mr. STUART:

(i) a fishery officer within the meaning of the Fisheries Act,

Mr. BATES: There might arise a situation in which the master of a vessel may not be a fishery officer. Actually, most of them are. But from time to time we have to take a boat whose master may not be a fishery officer, and in such cases we have to put on board with him someone who has been trained and has authority. But in most cases, the masters would have that authority, or if they did not have it, they could get authority when they became proficient.

Mr. STUART: I take it that none other than your patrol boats would have the authority to make these seizures?

Mr. BATES: Yes, because no one else would be patrolling the territorial waters or the boundaries.

Mr. STUART: Then I read clause 3:

3. (1) No foreign fishing vessel shall enter Canadian territorial waters for any purpose unless authorized by . . .

They could be in a harbour where you have fisheries inspectors and where there would be no patrol boat. Would the fishery inspector in one of those harbours have the same authority?

Mr. BATES: Yes, he would. If that kind of case should arise, he would have that authority, but I do not think there would be many such cases.

Mr. STUART: It is the protection branch of your department?

Mr. BATES: That is right.

Mr. STUART: And any officer in that protection branch would have authority to seize and sell?

Mr. BATES: That is right. Any officer would. But my point was that normally I think it has to be the captain, and if they came within a bay, then these people would have the authority.

Mr. BALCOM: And that would apply to a Royal Canadian Mounted Police officer or to a Royal Canadian Navy officer?

Mr. BATES: That is right.

Mr. BALCOM: But the Royal Canadian Naval officer would have to be specially designated for the job?

Mr. BATES: Yes. Up to this time in Canada we have not used the Canadian Navy generally for purposes of this kind. In other countries the navy is frequently used in patrol work and it may well happen in the future that we shall require to use the navy to assist us. In that case, sir, some officer aboard that boat would have to be qualified with authority in order to carry this through. But this section is wide enough to include any potential type of protection officer.

Mr. STUART: I have one suggestion to make; I might be a little narrow-minded in my view, but we have new appointments to the fisheries Department every year. Do you think it might be better, that before a junior officer made a seizure, that he first got in touch with a senior officer in that area? I am worrying about international goodwill in this matter because it means a great deal to that particular section down there; and it seems to me that you are placing an enormous amount of authority in the hands of junior officers, when they have the authority as I have indicated. There is some clause, but I cannot find it, whereby, without a warrant, he can make a seizure.

Hon. Mr. SINCLAIR: You may not realize how difficult it would be if, every time one of our own Canadian boats, for example, was patrolling, and a seizure was necessary.

Mr. STUART: I did not mean the patrol boats. I think you have men on your patrol boats who are qualified. I do not criticize that. I meant the little harbours such as we have on the Atlantic coast, where American boats are coming in by the dozen every day. There could be some slight violation and there could be a seizure by a junior officer of the department without consultation, or without being advised by someone with much more experience. That is all I am worrying about. I am not worrying about patrol boats or about the Royal Canadian Mounted Police; but in the little harbours some junior officer—you know, some of them take their jobs pretty seriously—might create a situation which would be very embarrassing for us.

Mr. BATES: Actually the fishery officers have had it within their authority now under the old Act, since 1868, and we have had no trouble. And as the Hon. Minister has pointed out, it is to some extent a matter of administrative procedure. We do issue instructions to our officers even in the matter of seizing trucks. But they are not given *carte blanche* on that. They require certain other authority before they can proceed; and the same would apply here as it has in the past.

Mr. KIRK: Clause 6, I think you mean.

Mr. GIBSON: In clause 2 you give a description of "fishing vessel" under paragraph (e). You say:

(e) "fishing vessel" includes any ship or boat or any other description of vessel used in or equipped for fishing or processing fish or transporting fish from fishing grounds and includes any vessel used or equipped for taking, processing or transporting marine plants.

Does that include the canning of fish on board a fishing vessel? I understand we have clashed with provincial legislation in a case of that kind already in British Columbia.

Mr. BATES: Processing here covers any type of processing including canning.

Mr. GIBSON: In British Columbia you are not allowed to have a floating cannery, as you know. Would it clash at all with this section by virtue of that? I am just asking for information. How does the provincial legislature step into our sphere of legislation regarding fishing vessels? Do they do it by means of eminent domain, or what would you call it?

Mr. BATES: Our legal man might answer your question.

Mr. OZERE: On that one there is the Fisheries Act of British Columbia which provides that no processing on floating vessels shall be carried out within the territorial waters of British Columbia. This Act was passed after the case in 1929 when the Privy Council decided that as far as the industrial processing of fish goes, with which this law is concerned, it is a matter of property and civil rights; therefore the province does have the jurisdiction to legislate. But whether the province has the power to legislate with respect to territorial waters is a question which is very much in doubt. However, the legislation is on the British Columbia statute books and it has never been challenged, so it stands. But in this case "fishing vessel" is described for the purpose of keeping out foreign fishing vessels. And the other provisions of British Columbia apply to any vessel, naturally. Foreign fishing vessels are defined as including processing vessels, and they also would not be allowed in the waters; so there is a double protection there, if you like, because the provincial legislation prohibits any floating processing vessel, and this legislation also keeps out foreign processing vessels.

Mr. GIBSON: To be an owner of a fishing vessel, one does not have to be a British subject. The owner of a Canadian fishing vessel can be domiciled or resident in Canada but does not have to be a British subject.

Mr. OZERE: That is correct. You might have a situation where somebody from the United States has come over to live in Canada.

Mr. GIBSON: Or somebody from Japan?

Mr. OZERE: Suppose he is living here and he gets a little fishing vessel. The regulations may require that the license be granted only to a British subject; and, as in the case of the British Columbia regulations, although he would not be allowed to get a license, he would be allowed to use his vessel in our waters for any purpose that is legitimate.

Mr. GIBSON: But have we given consideration to that aspect of the matter?

Mr. OZERE: In so far as British Columbia is concerned, no fishing license is issued to anyone except a British subject. Therefore, he would not be permitted under the regulations to fish.

Mr. GIBSON: But he could own the boat while not fishing it himself?

Mr. OZERE: That is right, but on the east coast we have no such regulations. And therefore, anybody living on the east coast, if he is a *bona fide* resident of Canada and has a permanent home there, would be entitled to fish, because there is no citizenship requirements as in British Columbia.

Mr. STICK: What would be the case with a person who is not a British subject but who takes out Canadian registration for a fishing boat? Would he be permitted to use it in the fisheries?

Mr. OZERE: Under Canadian law only a British subject who owns a British ship can register that ship. That is, you could not register your ship unless you were a British subject. But you do not need to be a British subject resident in Canada.

Mr. MACLEAN: Under what circumstances can a foreign-owned vessel be registered in Canada? Is that possible?

Mr. OZERE: No, I do not think it is possible. It has to be owned by a British subject under the provisions of the Canada Shipping Act.

Mr. GIBSON: Could I have a floating marine processing plant, let us say, in British Columbia, for processing kelp, or would that be precluded?

Mr. OZERE: As far as the Canadian vessel is concerned?

Mr. GIBSON: Yes.

Mr. CLARK (Department of Fisheries): Mr. Chairman, the British Columbia Fisheries Act is quite definite on that point. They will not license or allow to be used any type of processing vessel.

Mr. GIBSON: Do you think it would apply as well to marine plants?

Mr. CLARK: Yes.

Mr. ROBICHAUD: I would like to have clarification of a possible case of a Canadian registered vessel owned by an individual, or by individuals, or by a Canadian corporation and leased and manned by foreign interests?

Mr. OZERE: As long as it is a Canadian vessel we could not keep it from our waters.

Mr. ROBICHAUD: You could have a foreign crew on this vessel and it would still be a Canadian vessel under the provisions of this Act. Would that apply there too?

Mr. OZERE: That would be governed entirely by regulations under the Canada Shipping Act which is administered by the Department of Transport. Crews for Canadian vessels are governed by regulations made under that Act.

Mr. ROBICHAUD: Then your definition of a foreign vessel would not apply to such a possible case?

Mr. OZERE: No.

Mr. STUART: But you could not have a Canadian vessel without a Canadian master?

Mr. OZERE: I do not think so.

Mr. STUART: You could have some of the crew, who were foreign, but you would have to have a Canadian master.

Mr. ROBICHAUD: You could have a crew of foreign sailors on it.

Mr. STUART: Yes; but the master would have to be a British subject.

Hon. Mr. SINCLAIR: Not on the west coast, because everybody on the boat must have a license, and a license is only granted to a British subject; but that is not so on the eastcoast.

Mr. PEARKES: The Minister of Transport has the right to waive those regulations; and when he does waive the regulations in respect to the master or the officers of the ship having to be Canadian or British subjects, he must table the exceptions as was done only last week in the House, where they tabled the list of cases where he had waived those particular restrictions. Therefore it doesn't mean that for all times the master of a Canadian ship must necessarily be a Canadian subject or a British subject.

Hon. Mr. SINCLAIR: General Pearkes, many of these cases were cases where a ship was sailing and they had to get a captain or a mate immediately. I do not think any of these cases covered anything that was to be of a continuing nature, that is to say, to permit a continuing foreign crew on a Canadian owned or leased ship.

Mr. APPLEWHAITE: Nor were any of these fishing vessels.

Hon. Mr. SINCLAIR: That is another point. The smaller fishing vessels do not come under the Canada Shipping Act.

The CHAIRMAN: Mr. McLure.

Mr. McLURE: Under the interpretation section of this Act, section 2, subsection (d), "fishing" means fishing for or catching or killing fish by any method. What is meant there by "killing fish by any method"?

Mr. BATES: It involves sealing operations where they club the seals, harpooning and so on.

The CHAIRMAN: Or whaling, and so on.

Mr. McLURE: Or in sports fishing where they are using gunpowder?

Mr. APPLEWHAITE: I wouldn't call that very sporting.

The CHAIRMAN: Shall clause 2 carry?

Carried.

Clause 3.

*Foreign Fishing Vessels.*

3. (1) No foreign fishing vessel shall enter Canadian territorial waters for any purpose unless authorized by

- (a) this Act or the regulations,
- (b) any other law of Canada, or
- (c) a treaty.

(2) No person, being aboard a foreign fishing vessel or being a member of the crew of or attached to or employed on a foreign fishing vessel shall in Canada or in Canadian territorial waters

- (a) fish or prepare to fish,
  - (b) unload; land or tranship any fish, outfit or supplies,
  - (c) ship or discharge any crew member or other person,
  - (d) purchase or obtain bait or any supplies or outfits, or
  - (e) take or prepare to take marine plants
- unless he is authorized to do so by
- (f) this Act or the regulations,
  - (g) any other law of Canada, or
  - (h) a treaty.

(3) No person, being aboard a Canadian fishing vessel, shall bring into Canadian territorial waters fish received outside Canadian territorial waters from a foreign fishing vessel, unless he is authorized to do so by the regulations.

Mr. ROBICHAUD: I would like to have some clarification on subsection (3) of clause 3. This subsection refers to persons being aboard a Canadian vessel doing certain things. Do the provisions of subsection (3) cover any possible offences by the crew of a Canadian fishing vessel or its master? What I would like particularly to know, under the provisions of clause 3, for what possible offences would the Canadian master and his crew of a Canadian fishing vessel be liable under the provisions of this Act?

Mr. OZERE: This refers to receiving fish from a foreign vessel which would be outside territorial waters.

Mr. ROBICHAUD: Would he also be liable to the penalties provided under this Act if a Canadian fisherman or master brought any crew member or any other person from a foreign fishing vessel to a port, for instance, inside the territorial waters, and would he also be liable if he brought in supplies to a foreign vessel outside Canadian territorial waters from the shore?

Mr. OZERE: The only offence so far as Canadian vessels are concerned is in subsection (3). The other offences in clause 3 refer to foreign vessels. Subsection (3) is the only offence created in this Act so far as any Canadian vessel in territorial waters is concerned. There are further clauses which refer to offences, such as, for example, refusing to stop, but this is the only offence under this clause in so far as Canadian vessels are concerned; that is to say, no person, being aboard a Canadian fishing vessel, shall bring into Canadian territorial waters fish received outside Canadian territorial waters from a foreign fishing vessel, unless he is authorized to do so by the regulations.

Mr. ROBICHAUD: Hence it is clear a Canadian vessel may bring bait to a foreign vessel outside of the 3-mile limit.

Mr. OZERE: Could or could not?

Mr. ROBICHAUD: Then clause 3 makes it an offence for a Canadian vessel to do that?

Hon. Mr. SINCLAIR: The second point you made, taking men into Canadian ports from a fishing vessel, bringing supplies in from the foreign vessel, that party would be up against the customs or immigration regulations, but, taking Canadian supplies out, that is export, and unless there is some ban against export, there is no offence, unless it may be a ban against the export of strategic materials.

Mr. ROBICHAUD: My question was prefaced by the words "under this present Bill". Clause 3 make it an offence under this Bill to bring in supplies from outside Canadian territorial waters, and the bringing out of bait is not covered by this Bill at all?

Hon. Mr. SINCLAIR: Bringing bait in would be provided—

Mr. ROBICHAUD: Where is it provided for? To bring bait from a port to a fishing vessel by a Canadian vessel?

Mr. STICK: Bait would be fish.

Mr. ROBICHAUD: What about supplies?

Mr. OZERE: Supplies are not. Supplies are covered by the customs regulations.

Mr. STICK: This is a very important clause so far as Newfoundland is concerned. We have had numerous foreign vessels, such as those from Portugal, France and Spain, fishing off the Grand Banks, which I think are outside territorial waters, and they have been coming into our ports for supplies—bait and general supplies—and that trade has got to be a matter of importance. This question is, as I say, of some concern to us, to the people in Newfoundland, as to what the regulations are going to be in this regard. Could you give us any assurance that the relationship which has existed between the Portuguese and ourselves for very many years, and which we enjoy—they are friendly in the sense that we sell them supplies and they purchase large supplies of our salt codfish will not be interfered with. I think it is fair to say that there is uneasiness over this clause of the Bill, that it might interfere with the large amount of trade carried on in Newfoundland supplying those large trawlers. Could you give us any assurance that the matter will be seriously considered and that this happy relationship will not be upset unduly? Can we have that assurance that the matter will be very carefully considered before you bring in regulations that will upset that relationship?

Mr. BALCOM: Is it a suggestion that those purchases be confined to Newfoundland?

The CHAIRMAN: I do not take it that way, Mr. Balcom, but I think possibly that might be a matter for governmental policy. The Minister or the deputy minister might be able to answer Mr. Stick's question?

Mr. BATES: This will be a matter of government policy—the kind of regulations that are deemed right and proper in the future. I think it is fair to say that at the present there will be no change in these regulations, they will be carried out under this Act as they have been under the other. The point is that the government is asking authority here to change the policy and procedures in the future if it so wishes.

Mr. STICK: Will you consult the provinces before you make any move in the matter I have just spoken of?

Mr. BATES: As I say, this will be a matter of government policy, and that policy will include the consideration of fishing rights as well as merchandising rights and all the other interests that go into the question of bilateral trade between the various countries. It is quite a complex set of factors.

Mr. STICK: I thought so, and that is why I am worried.

Mr. BATES: I am pretty sure that changes will be given the most careful government consideration before anything is done.

Mr. STICK: While I am on this subject, could you explain to the committee the exact position as it stands now regarding these foreign ships coming in for supplies?

Hon. Mr. SINCLAIR: The Portugese ships, you mean, Mr. Stick?

Mr. STICK: The Portugese ships, yes; take that as an example.

Mr. OZERE: Under the Terms of Union with Newfoundland, we were requested before applying The Customs & Fisheries Protection Act to amend the Act before applying it to Newfoundland so as to permit the government to allow any foreign fishing vessels to come in and purchase bait and supplies in Newfoundland. This was done in 1949, and following the amendment an order in council was issued, which is renewed on an annual basis, and the present authority is Order in Council P.C. 6767 of December 14, 1951. It gives authority to the Minister: (1) to issue during the calendar year 1952 licences to United States fishing vessels to enter any port on the Atlantic coast of Canada to purchase bait, ice, seines, lines and all other supplies; and (2) to issue licences to any foreign fishing vessels in the calendar year enabling them to enter any port in the province of Newfoundland for the same purposes.

That is, in so far as United States vessels are concerned, they are allowed to enter any port on the Atlantic coast of Canada, including the maritime provinces and Newfoundland.

A similar Order in Council has now been passed for the year 1953. It is on an annual basis. The government could at any time revoke it and could also say as to what vessels it should apply. In other words, it could exclude Spanish vessels and say that only Portugese vessels would have this right, and so on. But that is a matter of government policy, and so far the policy has been continued, as was requested by the Newfoundland delegation.

Mr. STICK: What are the terms you specify there—you said consideration was given to some request. What was the wording you referred to? I just forget.

Mr. OZERE: I will read that. It is not in the document "Terms of Union" itself. It is in a statement of questions raised by the Newfoundland delegation during the negotiations for the union of Newfoundland and Canada. On page 8, section 2 reads:

At present the Customs and Fisheries Protection Act prohibits the selling of bait to foreign fishing vessels in Canadian territorial waters unless exempt by special treaty or convention. An amendment to this Act will be introduced in order to continue the practice now followed by Newfoundland in this matter.

Hon. Mr. SINCLAIR: Mr. Stick there is just one point that should be raised, and this actually strengthens the position of the Newfoundland fishermen. I have just come back from Newfoundland, and one of the points raised was this very question, and it was raised by the fishermen, not by the merchants, as to why we should continue to allow these great foreign fishing fleets to come in to this real base—because, after all, Newfoundland is the real base of the great Atlantic fisheries. These fishing fleets have to come thousands of miles from their home bases to fish there. The fishermen's union just questioned as to how long range a program it was to allow them this continued privilege when every year our sales to their markets drop, and they used Portugal as an example. This year we are selling them 30,000 quintals of fish, whereas some years we sold them 100,000 quintals. The more fish the Portugese catch the less fish the Newfoundland fisherman is going to sell to the Portugese. On the other hand, the sales of outfitting supplies by the merchants in the Newfoundland ports are quite important to the merchants. We want to see a

government policy which will be of maximum benefit to Newfoundland, to the fishermen primarily, and the merchants secondarily. I think this amendment does give much more strength to the Canadian position by us being able to say, this is a very valuable privilege we are giving you—what are you doing about the purchase of salt cod from us? I think that is the position we will take, but as the Deputy Minister has said, there is going to be no abrupt change in policy; but in this we have another weapon that strengthens our—

Mr. STICK: Bargaining power.

Hon. Mr. SINCLAIR: —yes, bargaining power.

Mr. STICK: That point is more or less cleared up and I am very glad to have that statement on the record from the Minister, because I think that statement being on the record here regarding this question is a good thing. I think it will satisfy most people in Newfoundland that it gives us better bargaining power. I have no doubt that the Portugese and other people who come there can be prevailed upon to make an arrangement that will benefit us.

Mr. STUART: If these regulations were made, would it not be for our own protection? There might be undesirables you would not want in your fishing ports, and I was wondering if that is not one reason why that provision is there.

Hon. Mr. SINCLAIR: It is not a matter of using it as an intimidation to upset, for example, the very happy relationship that exists between the Portugese and the Newfoundland people, and which has existed over the centuries, but certainly it is improving our position and anything which would improve our position in trading with European countries should be used.

Mr. ROBICHAUD: Mr. Chairman, can I ask another question in connection with clause 3 of the Bill? As I understand it, the Canadian fishing vessel is prevented from bringing in fish from a foreign vessel. It has been suggested that bait is fish. Hence he could bring bait from a port to a vessel outside territorial waters without falling within the ambit of clause 3. He is prevented from bringing in fish received from outside Canadian territorial waters. What about bringing bait to that ship outside territorial waters? Do I make myself clear?

The CHAIRMAN: Do you mean by that, Mr. Robichaud, that the fishermen might be required to go to the customs and make an export entry for the bait that he is selling to these foreign trawlers?

Mr. ROBICHAUD: That is the point I want clarified. It may happen in my county.

Mr. STICK: That is not the only place it happens.

Mr. OZERE: I think that while it is true that the situation is not covered here, it never was covered by the former Act either. It is a matter that relates to export or import regulations, something that is not regulated under this Act. If we wished to prohibit the export of bait from Canada, we would have to do it under the authority of the proper Act that regulates export and import, the Export and Import Permits Act. We would not be able to regulate it under this one.

Mr. STICK: What would be the position, for instance, in this case, if the Portugese vessel comes within five or six miles of our coast and Canadian fishermen bring supplies out to them? You have a similar position there, have you not?

Mr. ROBICHAUD: That is why I raised the point.

Mr. OZERE: It is a matter for our import and export regulations; it is not a matter of regulating the fishing vessels in our territorial waters.

Mr. STICK: It is not covered in this Act?

Mr. OZERE: No.

Hon. Mr. SINCLAIR: What would happen if some unnamed nation should not be accorded these port privileges of restocking with bait and ice and food, because we are competing with them on foreign markets in the sale of fish? In order to give encouragement for the fishermen, this buying of bait and running it out to circumvent the law, I think they would find it was in the interest of the fishing industry to stop that practice. So far as ships coming in, I thought we would be consistent, and then saying we would like a ban on the export of bait from these ports this season, that would be the only way you could implement that.

Mr. STUART: If you have that as a hard and fast regulation, the time may come when you want to sell bait and then you have a regulation there to damn the whole thing. I think it should be left as it is. It would not be sold unless it was profitable to do so.

Mr. BALCOM: Is that not another business proposition?

Mr. STUART: Yes, it is a business proposition.

Mr. BALCOM: Were the regulations not changed last year regarding foreign vessels coming in to make purchases, to the extent that the Atlantic provinces were included in this reciprocal port privileges convention? I understood last year that the former Minister of Fisheries had written a letter to this effect, that these foreign vessels could come in to North Sydney or Halifax to make their purchases.

Mr. BATES: No. There was a situation in the mainland which was actually illegal under the Customs and Fisheries Protection Act. The vessels, apart from United States vessels, had no right to come in to the maritime ports. They had been doing it for a number of years, Mr. Chairman, when it was drawn to our attention. We did what we considered the right and proper thing to do: that was to start enforcing an Act of the department which had not been enforced previously, and we indicated to the maritime merchants that this would be enforced; in fact—if I may say this off the record, Mr. Chairman—

The CHAIRMAN: Yes, this will be off the record.

Mr. BATES: . . .

One reason for trying to have this Act passed at this session is to give the minister, if he so wishes, authority to allow these vessels into mainland ports as well as Newfoundland ports.

Mr. BALCOM: All of these boats would have to go away back to St. John's, Newfoundland, to get bait?

Mr. STICK: No, not that far; they could go to Port aux Basques.

Mr. BLACK: I would like some further information with respect to the committee which I understand is appointed and operating under the United Nations, affecting coastal waters indirectly, and affecting our fishing interests. Who represents Canada on that committee?

Mr. ERICHSEN-BROWN: Canada is not represented on the committee.

Mr. BLACK: Well, we are awaiting the report of that committee to decide on what action we will take.

Mr. ERICHSEN-BROWN: If I might explain, it is not technically a committee, it is a commission. It is known as the International Law Commission. It is a subsidiary body of the General Assembly of the United Nations, which was appointed when it was first organized to assist the General Assembly in discharging its function of encouraging the progressive development and codification of international law. It is a body comprised of 15 members. Canada is not one of the states which has a representative on the body. This commission makes annual reports, which are considered in the General Assembly.

It has had under study the question of the regime of the high seas and as a special branch of that large topic, they studied this question of the continental shelf. It prepared a certain number of articles which were submitted for general information to the General Assembly at its sixth session; as I recall, that would be 1951. Those articles have not yet been the subject of substantive consideration by the committee. At the present time the General Assembly is waiting for further comments from governments, and I expect at the next session of the assembly the legal committee of the General Assembly will give further consideration to this report in the light of comments from governments.

Mr. BLACK: Does Canada make representations to this committee? If so, what representations have been made to the committee? No nation, I suppose, is more affected, more concerned with a report of this kind than is Canada. Have we made representations to the committee?

Mr. ERICHSEN-BROWN: Mr. Chairman, Canada has not filed any statement as yet with the International Law Commission.

Mr. BLACK: When was that United Nations committee appointed?

Mr. ERICHSEN-BROWN: It was set up in 1947.

Mr. BLACK: And Canada has made no representations to it in those five years?

Mr. ERICHSEN-BROWN: When I spoke of Canada not being on the committee, I was, of course, referring to the membership of the committee itself. You understand that the commission's reports are considered annually by the General Assembly, and they are referred to the legal committee of the General Assembly. Canada, of course, is represented in the General Assembly. Consequently, we have the same opportunity as any other member of the United Nations to express opinions or criticize any report which may emanate from the International Law Commission.

Mr. BLACK: As I understand it, no representations have been made by Canada to this committee?

Mr. ERICHSEN-BROWN: It is not exactly a matter of representation. It is a matter of comment on these draft articles, as they are called, relating to the continental shelf. It is a rather technical thing, this question of commenting upon the possible principles on which these articles were drafted. That, in the last analysis, would be a question of government policy, and Canadian opinion has not yet been formulated.

Mr. BLACK: We are studying it, are we not?

Mr. ERICHSEN-BROWN: Yes sir.

Mr. BLACK: And we expect to make a direct report to the committee?

Mr. ERICHSEN-BROWN: Yes sir; we expect to make some comments—and they will be simply comments—on the legal principles involved as to whether the draft articles are properly drafted or should be changed.

Hon. Mr. SINCLAIR: In my opening remarks—and I do not think you were here at that time, Mr. Black—I spoke of the government inter-departmental committee which is preparing Canada's stand on this. It is headed by Dean Curtis of the Law School of the University of British Columbia. It will concern itself with jurisdiction over territorial waters. The point that is made, as far as reference to a technical commission is concerned, it has to put all representations made to the committee. This commission would report to the general assembly, where we are represented, and then to the legal committee. That is where our Canadian representations on the report are made, or will be made, with more emphasis when we have our own Canadian committee's report not on just fisheries but on marine matters affecting the present territorial boundaries.

Mr. BLACK: Did you say that Dean Curtis is the representative for Canada?

Hon. Mr. SINCLAIR: No. No. Dean Curtis is a member of this inter-departmental committee of the federal government which is concerned with territorial waters. He is the legal advisor to it. The legal expert is Dean Curtis of the University of British Columbia who is an extraordinarily able man. He was a Maritimer originally.

Mr. STUART: Then he is all right!

Hon. Mr. SINCLAIR: But he went out to the west coast and he is now a Canadian authority on international law.

Mr. BLACK: Who is associated with Dean Curtis?

Hon. Mr. SINCLAIR: This departmental committee includes Mr. Ozere from the Department of Fisheries, a representative from the Department of Transport which is equally concerned, and a representative from the Department of External Affairs, and others; that is from the federal departments which are concerned in the problem of territorial waters. Our sole outside legal expert and advisor there is Dean Curtis of the University of British Columbia.

Mr. PEARKES: Has that committee held any meetings this year?

Hon. Mr. SINCLAIR: You will have to direct your question to the Department of External Affairs.

Mr. ERICHSEN-BROWN: Yes sir, that is so.

The CHAIRMAN: Shall clause 3 carry?

Mr. PEARKES: Are there any existing regulations which modify sub-clause 3 in so far as they apply to west coast fisheries?

Mr. OZERE: No, there are no regulations which would modify that clause except the ports privileges treaty for halibut fishing vessels.

The CHAIRMAN: Shall clause 3 carry?

Mr. MACLEAN: This Act, of course, is not designed primarily to apply to sports fishing. How is sports fishing exempted from it, if that is the intention? Or what is the position of sports fishing?

The CHAIRMAN: As I understand it, this is a consolidation of an Act which was introduced in 1867 and was first amended in 1913, and which is now being brought up to date. No doubt it will be up for further amendment in the light of any necessary changes which may be brought about. But I am unable to answer your question.

Hon. Mr. SINCLAIR: Perhaps Mr. Bates or Mr. Ozere would outline for us the jurisdiction over sports and commercial fishing.

Mr. OZERE: The Act applies to sports fishing in this way: You could not come into Canadian territorial waters using a foreign boat, even for sports fishings, but that is as far as this Act would be applicable, I think. Otherwise the regulations with respect to sports fishing as well as commercial fishing are enacted under other federal statutes. The Government of Canada legislates on sports fishing as well as on commercial fishing; and in the case of some provinces, the administration or the enforcement of federal regulations, especially as far as sports fishing is concerned, has been combined with the provincial protection of game, and therefore they are enforced by provincial officers. Nevertheless, the legislation is enacted by the federal government.

Mr. MACLEAN: What I have in mind there is the International Tuna Fishing contest which is usually held off Nova Scotia. Perhaps some of those teams might want to bring their own vessels. Would they be prohibited?

Mr. OZERE: They would, under this Act, but the Governor in Council, under clause 3, could exempt them.

Mr. STUART: In every case with respect to licence for sports fishing, they would be under the jurisdiction of the provincial legislature.

Mr. OZERE: In those provinces where sports fishing is administered by the provincial government.

Mr. STUART: The protection is under the federal government, but the administration, as far as the licence is concerned, is under the provincial jurisdiction.

Mr. OZERE: In some cases it goes further than that; the province actually enforces the federal regulations. But licences are in some cases a means of raising revenue, and in some provinces they are used as a means of taxation.

Mr. STUART: I was thinking of New Brunswick when I spoke. I know that all licences there are under the jurisdiction of the province. Surely the protection of streams is under federal jurisdiction though?

Mr. OZERE: They issue the licence as a means of raising revenue.

Mr. PEARKES: How would that affect American fishing boats coming up to the Campbell River and fishing in our territories?

Hon. Mr. SINCLAIR: I was thinking of that myself.

Mr. OZERE: If it is an American vessel, it would not be permitted to come in without special authorization.

Mr. PEARKES: Americans fishing as tourists would be prevented from coming up to catch fish in the Campbell River?

Hon. Mr. SINCLAIR: I know that in my riding they have caught thousands of them.

Mr. PEARKES: Yes, and all over the west coast you get hundreds coming in every year. Would they be stopped?

Mr. OZERE: We would have to have special authority or regulations made under the Act to exempt this class of vessel from the provisions of the Act; otherwise they would be stopped.

Mr. PEARKES: That is why I asked if there were any regulations now.

Mr. OZERE: I am not aware of there being any regulations.

Mr. GIBSON: They would not be foreign fishing vessels as such.

Mr. PEARKES: You define a fishing vessel as being this:

(e) 'fishing vessel' includes any ship or boat or any other description of vessel used in or equipped for fishing or processing fish or transporting fish from fishing grounds and includes any vessel used or equipped for taking, processing or transporting marine plants.

I would like to suggest that at the next session it may be necessary to publish some regulations regarding that, because a great many vessels come up into the territorial waters on the British Columbia coast and carry out a lot of sport fishing there.

Hon. Mr. SINCLAIR: The point raised is of great concern in British Columbia. I think that all British Columbia members would agree to that. The regulations will simply have to cover that class of boat which is not a commercial fishing vessel in the sense that we usually think of, but which is a very valuable asset for the British Columbia tourist industry. We also issue restrictive permits in at least two areas, Phillips Arm and Rivers Inlet limiting the catch which these American boats can make. Apparently we have no regulations on the American boats; but they certainly would be covered in the regulations here.

Mr. ROBICHAUD: May I suggest that in clause 2 the word "commercial" be added before the words "fishing or processing", to cure the possible trouble which is anticipated now.

The CHAIRMAN: Clause 2 has already been carried by the committee.

Mr. ROBICHAUD: I would like to make my suggestion, even though it has been carried.

Hon. Mr. SINCLAIR: The main objection would be that it would completely exclude them from the regulations. We would like to have control over these American tourist fishermen just as we have control over our commercial fishermen. Within the two limited areas on the British Columbia coast there are complaints of over-fishing; and if we limit our control to commercial fishing, the field would be wide open to those sport fishing.

The CHAIRMAN: By unanimous consent we could revert to clause 2, but perhaps the Minister's answer has satisfied you.

Mr. ROBICHAUD: Yes.

The CHAIRMAN: Now, Mr. Kirk.

Mr. KIRK: I see the answer. I wondered if the British Commonwealth Nations are foreign nations, but I think that is answered in clause 2 perhaps.

Hon. Mr. SINCLAIR: What clause are we on?

The CHAIRMAN: Clause 3. You are satisfied, Mr. Kirk?

Mr. KIRK: Yes. I think that paragraph (f) in clause 2 answers my question.

The CHAIRMAN: Shall clause 3 carry?  
Carried.

Clause 4: Shall clause 4 carry?  
Carried.

Clause 5?

Mr. APPLEWHAITE: The application of clauses 5 and 6 apply to all fishing vessels whether Canadian or otherwise?

The CHAIRMAN: Yes, that is so.

Mr. STUART: I would like to ask one question, but I won't press it. I read clause 5, and there is a certain section, if I can find it. Oh, it is in clause 6. Clause 5 is all right.

The CHAIRMAN: Shall clause 5 carry?  
Carried.

Clause 6?

Mr. MacNAUGHT: Sub-section (2), I think, is what you mean.

Mr. STUART: Clause 6 is what I am worried about, but if the others feel that it is all right then I will not protest it. It does seem to me that here you might have junior employees of the department with too much authority. If you will read it over you will see that it says in paragraph (b):

(b) any goods aboard the fishing vessel, including fish, tackle, rigging, apparel, furniture, stores and tackle or . . ."

I believe that might be going a little too far, but that is just a personal opinion, and if the others are agreeable that it should be that way, I shall not protest it.

Mr. OZERE: This enforcement section only gives power to the protection officer to make an arrest or seizure. No one can be deprived either of his liberty or his property unless it is so determined by the court. In the same way a policeman on the street, if he suspects that an offence has been committed, is given very wide powers. But before you can be deprived of your liberty or your property, it has to be done by a court; and the same thing applies in this case.

The power to arrest without a warrant is considered to be necessary. Suppose the protection officer detects a violation by a fishing vessel within our territorial waters. He has got to bring in the members of the crew, and it would not be possible for him to go out and get a warrant, because if he did so, by the time he got back, both the vessel and the crew might be gone. Also, if some of this foreign crew came into our port and committed other offences such as purchasing any supplies without authority, then before he could arrest them on a warrant, both the men and their vessels might be gone. Therefore I think this power is quite necessary.

Mr. PEARKES: Might I ask whether these regulations apply to the west coast? I presume they would be modified by the Japanese Fishing Treaty, and therefore would not apply in full.

Mr. OZERE: No sir; they would not be modified by the Japanese Treaty because the Japanese Treaty only refers to extra-territorial waters, while this refers entirely to our own territorial waters. Therefore any vessel which comes into our territorial waters is subject to the jurisdiction of our courts, and is covered by this Act.

The CHAIRMAN: Shall clause 6 carry?

Carried.

Mr. CATHERWOOD: Mr. Chairman, we enjoy pretty harmonious relations with the United States on our Great Lakes. I wonder if this clause is similar to the one which was drawn up, so far as the American regulations are concerned?

The CHAIRMAN: What clause?

Mr. CATHERWOOD: I mean clause 6. Are these particular regulations similar to the United States regulations?

Mr. OZERE: Yes. Our fishing vessels are not permitted to enter the territorial waters of the United States. And as far as the Great Lakes are concerned, there is a boundary. Part of the waters are Canadian, while on the other side of the boundary they are American. And the fishing vessels of one country are not permitted to fish in the waters of the other country.

Mr. GIBSON: I was wondering if the answer is not due to this: that it would be necessary with a perishable article such as fish to take it out as soon as possible, because if we are going to return that money, it might be very important to the fisherman.

Mr. OZERE: Well, I think we have to take into consideration the fact that these are foreign fishing vessels, and if you seize a vessel you may have representations made before you have taken any prosecution, and sometimes these matters drag out for a pretty long time. Actually this 3-month period is a limitation. Under the former Act—the Act being revised now—there was no time limit. In this bill we limit it to three months.

Mr. STUART: This may be a customs regulation. You speak of Canadian vessels going into American waters. In the past 20 years there would be two out of three boats, big and small, which go back and forth without any interference at all. Is that a special permit they are given—they take Canadian fish into American ports without any interference.

Mr. BATES: Are you not talking about fishing in Canadian waters? You are referring to Canadian vessels carrying Canadian fish into American ports. That is not affected by this bill.

Mr. STUART: Would that same law apply to American vessels coming into Canadian ports with American fish?

Mr. BATES: They are not permitted.

Mr. STUART: That is why I say it is a delicate question. We have had these privileges and they have had them from time immemorial. There are

lobster smacks, Canadians—as you know—who will load the lobsters in Nova Scotia or New Brunswick or Prince Edward Island. They go into Gloucester, Boston, in competition with American fishermen. There is no opposition there. There is no fishing regulation to stop that? It is a Canadian product in a Canadian boat being delivered into an American port. That goes on every day.

Mr. ROBICHAUD: Referring to subsection 7 of clause 6. Assuming that the seizure has been made by a protection officer who has reasonable grounds for thinking that an offence is being committed and no action is taken, no prosecution is started against the alleged offender. Later, the ship is returned to him. In the case of a Canadian vessel, if it is tied up for three months on reasonable grounds, and no prosecution is taken, are there any provisions for compensation to the fisherman, and if not, why should there not be compensation?

Mr. OZERE: You are in exactly the same position with respect to this as you are with respect to enforcement of any other law. If the government sets in motion any machinery whereby someone is prosecuted or his property is seized, and if it turns out that there was no probable or reasonable cause for doing so, the injured party may bring an action in damages. You are no different here than you are in any other situation of that sort.

Mr. ROBICHAUD: What about sections 25, 26 and 27 of the old Act? Are they being incorporated into the new Act with regard to compensation?

Mr. OZERE: No, this is related to the protection of the officers themselves.

Mr. ROBICHAUD: Yes, I know.

Mr. OZERE: The Department of Justice was of the opinion that this is adequately covered under the common law, that this protection does not go any further than the protection under the common law; and, therefore, they felt that this section was superfluous.

Mr. ROBICHAUD: This is a different type of seizure from the ordinary type of seizure. In this case you are really taking away the means of livelihood of a fisherman in keeping his boat for three months. It is different from seizing my car, for instance.

Mr. APPLEWHAITE: Not if you are a taxi operator.

Mr. STUART: Or seizing my gun if I am poaching.

Mr. OZERE: Of course this relates to foreign fishing vessels.

Mr. ROBICHAUD: Yes, but it is possible under subsection (3) of clause 3 it would affect Canadian vessels.

Mr. OZERE: What I am trying to say is that most of the prosecutions against our fishermen are instituted under other legislation, under our Fisheries Act, for instance, and under that Act we have much wider powers than we have under this one.

Mr. ROBICHAUD: I grant that, but there is a possibility that one of our Canadian fishermen may be taken in under subsection (3) of clause 3, and his vessel seized and kept in custody for three months. It is most unfair if he has no compensation.

Mr. OZERE: When you say he is deprived of his ship for three months, that is an exaggeration in most cases. That is the maximum limit. Prosecution is generally started immediately. Ordinarily when a protection officer seizes a ship he immediately gets in touch with the Minister, who then decides what is to be done, and he does that immediately.

The CHAIRMAN: Under clause 6 there is a provision for redelivery on bond.

Shall clause 6 carry?

Carried.

## Clause 7.

7. Every person is guilty of an offence who
  - (a) being master or in command of a fishing vessel,
    - (i) enters Canadian territorial waters contrary to this Act, or
    - (ii) fails to bring to when required so to do by any Protection Officer or upon signal of a government vessel;
  - (b) being aboard a fishing vessel, refuses to answer any questions on oath put to him by a Protection Officer;
  - (c) after signal by a government vessel to bring to, throws overboard or staves or destroys any part of the vessel's cargo, outfit or equipment; or
  - (d) opposes or obstructs any Protection Officer in the execution of his duty.

Mr. APPLEWHAITE: Mr. Chairman, there is one obvious question there and I think it can be answered without great length. Clause 7 (a) (i)—“Every person is guilty of an offence who being master or in command of a fishing vessel, enters Canadian territorial waters contrary to this Act.” What is the overriding international law which permits anybody to bring their ship into port under stress of weather, danger of loss of life, and so on?

Mr. OZERE: I think that is under The Hague Convention. Perhaps Mr. Erichsen-Brown might know something about that.

Mr. ERICHSEN-BROWN: I would not like to answer that without considering it.

Mr. APPLEWHAITE: The question I really wanted to ask is, has it been definitely established that that provision is a defence without setting it out in any way in this Act which creates the offence?

Mr. OZERE: The courts of our land have always applied any international law that is applicable.

Mr. APPLEWHAITE: Without any necessity of referring to this in this Act?

Mr. OZERE: That is right.

Mr. ROBICHAUD: Referring to clause 7 (a) (ii)—Every person is guilty of an offence who being master or in command of a fishing vessel, fails to bring to when required so to do by any protection officer or upon signal of a government vessel. This provision could apply to a Canadian vessel as well as a foreign vessel under this clause. Is it realized that a sailing schooner, due to current and high winds, simply cannot, sometimes, especially when it is tacking, come to when it is required, and, hence, why should not the word “wilfully” precede this subsection? According to the Criminal Code, in some of those severe sections, punitive sections, it always contains the word “wilfully”, and I would strongly suggest that in this case for failure to bring to, that the word “wilfully” should precede that subsection. I know for a fact, and from practical experience, especially with a sailing vessel, you cannot “bring to” under certain circumstances, and if the word “wilfully” is left out it would be too easy to convict some of our Canadian mariners.

Mr. OZERE: Yes, I see your point, but I think in offences of this nature guilty intent is always a material ingredient. In other words, you have to prove, in addition to everything else, that the mind was a guilty mind, that there was what we call legally *mens rea*, and unless you showed that, I doubt very much that the court would ever convict anybody who accidentally could not avoid the commission of the offence. I think that perhaps in the other subsection the word “wilfully” could be inserted. Was that in your mind?

Mr. ROBICHAUD: Yes, I was coming to that later.

Mr. OZERE: I think some statutes do not use the word "wilfully" and others use the word "wilfully". The Criminal Code has it in this way—"resists or wilfully obstructs", but there are several other statutes that do not have it, and the Department of Justice thought that the word "wilfully" does not add anything to it, that it will be the same situation because you will have to prove guilty intent. We would have no objection to have the same wording in paragraph (d) as appears in the Criminal Code, for the sake of uniformity.

Mr. ROBICHAUD: My learned friend will agree that the word "wilfully" by itself raises the question of intent and places the burden on the Crown. The word "wilfully" places the burden on the Crown or the prosecution to prove *mens rea* and guilty intent, and unless they so do, the accused does not have to take the stand, whereas the absence of the word "wilfully", leaves the door open and the burden is then on the accused to prove certain mitigating circumstances, to establish the lack of intent, and so I am strongly in favour of the word "wilfully" preceding that subsection, for the reasons I have already indicated, namely, the impossibility in most cases of "bring to" a sailing vessel.

Mr. STUART: I think that the term is not going to give us a great deal of worry. I have spent some little time on the water myself and I have never seen the time when I could not "heave to" when necessary. I do not believe that under the conditions outlined there would be any necessity for asking leave, because in that case I think you would have quite a job catching him.

Mr. ROBICHAUD: Let us forget the circumstances of "heaving to", and "wind tacking". I submit that a sub-section of this nature should be prefaced by the word "wilfully" for the reasons which I have already explained.

Mr. STUART: The clause which worries me is the next one. Might I ask a question on that? That is paragraph (b) which reads:

7 (b) being aboard a fishing vessel, refuses to answer any questions on oath put to him by a Protection Officer;

It would appear to me that it puts the onus on the fisherman rather than on the department. I think it should be up to the department to prove him guilty, rather than to use the procedure which is outlined here. Was it the same under the old Act?

Mr. OZERE: Yes, it was the same sort of thing.

Mr. STUART: Would it apply in this way: suppose I am catching small lobsters and suppose a fisheries inspector—one of your inspectors—is very much convinced that I am catching small lobsters. Without any evidence at all he can take me before the court and say: "I am of the opinion that this man has broken the law, and I want him put on his oath", without his producing any evidence at all to show that I have in any way violated the law.

Mr. OZERE: This applies only to foreign fishing vessels.

Mr. STUART: Well, in that case I have no more to say.

Mr. OZERE: You do not always want to search the vessel.

Mr. STUART: I see.

Mr. ROBICHAUD: But it could apply to the master of a Canadian vessel.

The CHAIRMAN: Does clause 7 carry?

Mr. ROBICHAUD: No, no.

The CHAIRMAN: Well, it is now 1.00 o'clock. Do you wish to adjourn to the call of the chair?

Mr. MacNAUGHT: I suggest that we have the next meeting of the committee on Friday at 11.00 o'clock.

The CHAIRMAN: It has been moved by Mr. MacNaught and seconded by Mr. Pearkes that the committee adjourn until Friday morning at 11.00 o'clock. All those in favour? CARRIED.





Gov. Doc  
Can  
Com  
H

Standing Committee on 1972

HOUSE OF COMMONS

Seventh Session—Twenty-first Parliament  
1952-53

CAN 16 17  
- 1112

---

STANDING COMMITTEE

ON

MARINE AND FISHERIES

*Chairman:* T. G. W. ASHBOURNE, Esq.

---

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

---

FRIDAY, FEBRUARY 13, 1953

---

Bill No. 44 (Letter E of the Senate),  
An Act to Protect the Coastal Fisheries  
including  
Second Report to the House

---

WITNESSES:

Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries;  
Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1953

STANDING COMMITTEE  
ON  
MARINE AND FISHERIES

*Chairman:* T. G. W. Ashbourne, Esq.

*Vice-Chairman:* A. W. Stuart, Esq.

Messrs:

Applewhaite	Gibson	MacLean ( <i>Queens</i> )
Arsenault	Gillis	MacNaught
Balcom	Harrison	Maltais
Bennett	Henderson	McLean ( <i>Huron-Perth</i> )
Black ( <i>Cumberland</i> )	Higgins	McLure
Blackmore	James	Mott
Breton	Kirk ( <i>Antigonish-</i>	Pearkes
Browne ( <i>St. John's</i>	<i>Guysborough</i> )	Robichaud
West)	Langlois ( <i>Gaspé</i> )	Stick
Cannon	Leger	Thomas
Côté ( <i>Matapedia-</i>	Macdonald ( <i>Edmonton</i>	Wood
<i>Matane</i> )	<i>East</i> )	
Fulford	MacInnis	

(Quorum—10)

A. SMALL,  
*Clerk of the Committee.*

## REPORT TO THE HOUSE

FRIDAY, February 13, 1953.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

### SECOND REPORT

Your Committee has considered Bill No. 44 (Letter E of the Senate), intituled: "An Act to Protect the Coastal Fisheries", and has agreed to report it with amendments.

A copy of the Minutes of Proceedings and Evidence of your Committee is appended.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*



## MINUTES OF PROCEEDINGS

FRIDAY, February 13, 1953.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Black (*Cumberland*), Browne (*St. John's West*), Côté (*Matapedia-Matane*), Fulford, Gibson, Harrison, Macdonald (*Edmonton East*), MacInnis, MacNaught, Pearkes, Robichaud, Stick, Stuart (*Charlotte*), Thomas, and Wood.

*In attendance:* Mr. Stewart Bates, Deputy Minister, Mr. G. R. Clark, Assistant Deputy Minister, Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs.

The Chairman called the meeting to order and announced that Mr. Browne had been substituted for Mr. Catherwood on the Committee.

The Committee resumed its consideration of Bill No. 44 (Letter E of the Senate), an Act to Protect the Coastal Fisheries, and continued the questioning of Messrs. Ozere and Erichsen-Brown thereon.

On Clause 7:

Mr. Robichaud, seconded by Mr. Pearkes, moved:

That subparagraph (ii) of paragraph (a) be amended by inserting, at the beginning of the first line thereof immediately preceding the word *fails*, the words "without lawful excuse, the proof whereof shall lie on him,"

And the question having been put, the said motion was agreed to.

Mr. MacNaught, seconded by Mr. Robichaud, moved:

That paragraph (d) be amended by deleting, in the first line thereof, the first two words *opposes or* and substituting therefor the words "resists or wilfully".

And the question having been put, the said motion was agreed to.

Clause 7, as amended, was adopted.

On Clause 8:

Mr. Browne, seconded by Mr. MacNaught, moved:

That paragraphs (a) and (b) of subclause (1) and paragraphs (a) and (b) of subclause (2) be amended by deleting, in the first and second lines of each of the said paragraphs, the word *of*, and substituting therefor, in each case, the words "not exceeding".

And the question having been put, the said motion was agreed to.

Clause 8, as amended, was adopted.

Clauses 9 and 10 and the Title were severally considered and adopted.

The witnesses retired.

*Ordered*,—That the Chairman report the Bill to the House with amendments.

At 11.45 a.m., the Committee adjourned to the call of the Chair.

A. SMALL,  
*Clerk of the Committee.*

## EVIDENCE

February 13, 1953.

11.00 a.m.

The CHAIRMAN: Order. It is past eleven now and we have a quorum so I think we will start our deliberations this morning. We are pleased to see Mr. Browne with us; he replaces Mr. Catherwood on the committee. When we adjourned on Monday we were considering clause 7. I think the discussion on this clause centered on Mr. Robichaud's suggestion that the word "wilfully" be inserted in the beginning of paragraph (a) subparagraph (ii) of this clause and Mr. Bates' alternative concession to insert the word "wilfully" at the beginning of paragraph (d) of this clause.

Mr. ROBICHAUD: Mr. Chairman, you mentioned paragraph (d). It does not cure what I claim to be a defect in paragraph (a) sub-paragraph (ii). I would suggest that the words "without lawful excuse" be added to subparagraph (ii) of paragraph (a) after the word "fails" for the reasons already fully expressed at the last meeting.

Mr. MACNAUGHT: Mr. Chairman, I think that our legal officers have given it fairly complete consideration since we met last and Mr. Ozere might make a statement.

Mr. OZERE: Mr. Chairman, the way the clause reads now, if you charge this offence, the Crown witnesses simply prove that a signal had been given and the vessel failed to stop. Then, the accused must give an explanation of why he did not do so and if he gives a good explanation he is acquitted. If you put the word "wilfully" or any similar connotations, the Crown would have to prove not only that he failed to stop but that he did so wilfully and that would have to be proven by Crown witnesses. If the Crown failed to prove it by its own witnesses, the accused would not have to give any explanation at all, which means for all practical purposes you might as well throw out this sort of an offence if you are going to put in a limitation of that kind because it would be in most cases impossible to get a conviction.

Mr. ROBICHAUD: I quite agree with the explanation given from a prosecution point of view, but I am looking at it from a defence point of view. As I explained before in the case of a sailing vessel without a motor—and I have several in my constituency—I submit it is impossible to stop in some cases and I do not see the objection to the words "without lawful excuse" and I would move an amendment to that effect.

Mr. OZERE: I think we must remember that this Act will be applied mostly to foreign fishing vessels and I have not heard—this Act has been in force for over 75 years—certainly I have not been able to find a record in our department where a Canadian fishing vessel has been prosecuted under the provisions of this Act.

The CHAIRMAN: I think I should ask if there is a seconder to this amendment moved by Mr. Robichaud?

Mr. PEARKES: I will second it so that it can be discussed.

The CHAIRMAN: The amendment is now before us, gentlemen.

Mr. OZERE: Most of the offences committed by any of our fishermen are under other laws such as the Fisheries Act and the prosecutions would be undertaken under those laws, so while this section has a general application

in actual practice it applies mostly to foreign fishing vessels and we would hesitate to put in a limitation of that kind for the reason that it would make our problems more difficult.

Mr. APPLEWHAITE: Mr. Chairman, a lawful excuse is always a defence whether stated or not. If you have a lawful excuse, and impossibility to comply with an order is a lawful excuse, therefore it does not strengthen the position of the defence to put in the words "without lawful excuse". But it is quite properly impossible for anybody to prove what was in the mind of anybody else. That can only be done by raising a presumption. I would suggest the purpose of this bill, which we as a committee are primarily interested in, is the protection of the coastal fisheries of Canada and while we certainly do not want to take any action which drastically curtails the liberty of the subject, neither do we want to take any step which makes it practically impossible for the officials to apply the Act which would protect our own fishermen. By the insertion of the words "without lawful excuse", every prosecution under this Act would fail unless the Crown could prove what was in the mind of the person who committed the infraction—I have a great deal of sympathy with Mr. Robichaud's expression that we should not curtail the freedom of our Canadian fishermen, but if we are going to protect them, we should have an Act which has got some teeth in it.

Mr. ROBICHAUD: Would it not be possible to change the wording of this clause that there would be enough teeth in it to protect our coastal fisheries from foreign vessels but not make it so harsh in its possible application to Canadian fishing vessels.

Mr. MACNAUGHT: I am somewhat in sympathy with the attitude that Mr. Robichaud takes but since the application of this Act is extremely doubtful to Canadian ships, I think that for the reasons advanced by Mr. Ozere that we should leave the clause as it is.

Mr. BROWNE: Would the Parliamentary Assistant consider the argument advanced by Mr. Applewhaite that if the clause read "every person is guilty of an offence who (a) being master or in command of a fishing vessel," then come down to paragraph (ii) "without lawful excuse fails to bring to when required so to do by any protection officer or upon signal of a government vessel"; that does not throw the onus on the Crown to prove he did not have a lawful excuse. The onus would be on the person concerned and the obligation would be to prove he had a lawful excuse.

Mr. MACNAUGHT: My own opinion is it would not add anything to the clause.

Mr. ROBICHAUD: Why is "without lawful excuse" used so often in the Criminal Code time and time again. It has some meaning, otherwise it would not be embodied in the Code.

Mr. MACNAUGHT: In certain instances, but not in a case such as this.

The CHAIRMAN: It places the onus of the proof upon the Crown. Is not that what you meant, Mr. Robichaud?

Mr. WOOD: Not in those words.

Mr. OZERE: There are places where the words "without lawful excuse" are used, but many where they are not used, and where used it is only in connection with special offences. We have in our Fisheries Act, for example, a section which deals with possession of fish "no one without lawful excuse, the proof whereof shall lie on him"—

Mr. BROWNE: That is just what Mr. Robichaud wants.

Mr. ROBICHAUD: That is what I submitted, Mr. Chairman.

The CHAIRMAN: I think you submitted "without lawful excuse".

Mr. BROWNE: If I may say so, as it stands now I think a person is liable if he fails to bring to whether he has a lawful excuse or not.

Mr. APPLEWHAITE: That cannot be.

The CHAIRMAN: Is there a further amendment to include the additional words?

Mr. ROBICHAUD: Yes.

Mr. MACNAUGHT: We have no objection.

Mr. MACINNIS: Is not the onus of proof always on the accused in the matter of wilful excuse and if anyone put up that excuse consequently then only would he be asked to prove it?

Mr. STUART: The other day I perhaps did not go into detail but I would like to point out some of the difficulties. I just want to show the committee two or three cases where it would be very, very difficult for the fishermen and I want to take three different classes of the fishing and I think the Deputy Minister will agree with what I have to say. There never was a boat load of scallops that came into any fishing port which could not be condemned by a fisheries inspector. I am not being critical, but there never was a boat load of scallops brought into a fishing port that you could not find some undersize scallops in it. There never was a barrel of clams dug from time immemorial with which some fault could not be found. I know of one particular case where shipments of clams were passed by one inspector and condemned by another, and I am not criticizing either one of these inspectors. During the lobster season on the Atlantic coastline men fish two or three hundred lobster traps, where 25 years ago a hundred was the limit. At daybreak these fishermen would be on the fishing grounds and would haul from daybreak until dark, weather permitting, and it would be impossible for them to measure each lobster as they were taken from the traps. Time would not permit them to do so.

During the last fall lobster season, the Fisheries Department, in order to have a record, measured over 80,000 lobsters produced by Grand Manan fishermen. Those which were measured would be very near the legal size limit, and of this number less than 100 were found to be of an illegal size. I would say the officers had used discretion in every way in the world and I do not mean that in a critical sense, but nevertheless an inspector with little experience could create a lot of trouble and ill feeling among these fishermen. These are the things I am afraid of under the regulations.

The CHAIRMAN: Under which regulations?

Mr. STUART: Under the penalties.

The CHAIRMAN: No, Mr. Stuart.

Mr. STUART: That is an infraction of the Fisheries Act.

Mr. MACNAUGHT: Infractions under the Fisheries Act have nothing to do with this Act whatsoever. This Act has to do only with foreign fishing vessels coming into our territorial waters.

Mr. STUART: It was said the other day that it would apply to our own as well as other fishing vessels.

Mr. ROBICHAUD: I will not raise it within the ambit of this Act but I think the infraction mentioned by Mr. Stuart would fall directly under the Fisheries Act.

The CHAIRMAN: There is no doubt on that point.

Mr. STUART: You still have these penalties to contend with, do you not?

The CHAIRMAN: I think the penalties as referred to in this Act, Mr. Stuart, have to stand.

Mr. STUART: We have Canadian boats going into American ports with Canadian goods without any trouble—lobsters and sardines and the things we produce and I think if we were too severe there might be retaliation.

The CHAIRMAN: Are you ready for the amendment gentlemen?

Mr. GIBSON: Has it been accepted Mr. Chairman?

The CHAIRMAN: Yes.

Mr. APPLEWHAITE: Would you read the exact wording?

The CHAIRMAN: "without lawful excuse, the proof whereof shall lie on him,".

Mr. GIBSON: Is it the burden of proof?

The CHAIRMAN: Yes the burden of proof.

Mr. GIBSON: What clause?

The CHAIRMAN: Clause 7 (a) (ii).

Mr. APPLEWHAITE: Let us be sure of this. Is it not the burden of proof whereof without lawful excuse?

The CHAIRMAN: That is the Fisheries Act.

The amendment proposed by Mr. Robichaud and seconded by Mr. Pearkes is to insert the following words after the word "vessel" in clause 7, paragraph (a), subparagraph (ii), "without lawful excuse, the proof whereof shall lie on him,".

The amendment is before you gentlemen. Are you ready for the question?

Hon. MEMBERS: Question.

The CHAIRMAN: Those in favour of the amendment please say "aye"; contrary, "nay".

Hon. MEMBERS: Aye.

The CHAIRMAN: Amendment carried. Shall the clause as amended carry?

Mr. ROBICHAUD: It is understood the word "wilfully" shall be inserted in clause 7 (d) after *opposes*—"wilfully obstructs".

Mr. OZERE: On that one we would not object if the wording was made similar to what it is now in the Fisheries Act or the Criminal Code.

Mr. ROBICHAUD: The Criminal Code has the words "wilfully obstruct".

Mr. OZERE: That is true but you have to change "*opposes*" to "*resists*", "*resists or wilfully obstructs*". That would make it uniform with the Criminal Code.

Mr. ROBICHAUD: That is all right.

The CHAIRMAN: It is moved by Mr. MacNaught and seconded by Mr. Robichaud that clause 7, paragraph (d) be amended to read "*resists or wilfully obstructs any Protection Officer in the execution of his duty*".

Hon. MEMBERS: Agreed.

The CHAIRMAN: Is the amendment carried?

Hon. MEMBERS: Carried.

The CHAIRMAN: Shall paragraph (d) of clause 7 as amended carry?

Hon. MEMBERS: Carried.

The CHAIRMAN: Shall clause 7 as amended carry?

Carried.

On clause 8:

Mr. ROBICHAUD: In connection with clause 8, I wish to bring to the attention of the committee the enormous increase in the penalty provided under the Act as compared with the old Act. I hold no brief for foreign vessels but it

is possible that in certain cases our own Canadian vessels might be involved and as it is I am at a loss to understand why the penalties should be so increased. Now, in the case of obstruction under the old Act, section 13, when it was an indictable offence, the fine was \$800. Now under the present proposals under indictment the fine can go as high as \$10,000 or imprisonment for one year or both. On summary conviction under the present Act it is \$2,000. There is a tremendous increase there from \$800 to \$10,000. Some of our own fishing vessels might be involved.

Mr. MACNAUGHT: These are all maximum penalties. The reason for the increase is that under the old Act the only penalty was forfeiture. This Act provides other penalties instead of forfeiture and they are in relation to the increase in the value of fishing vessels over the years. When the Act was originally drafted, vessels used in fishing were small and not equipped anything like vessels are today. I think the amount of these maximum penalties is in relation to the increased value of the fishing vessels. I am sure in the case mentioned by Mr. Robichaud the courts would exercise their usual discretion and not impose these maximum penalties if any Canadian vessel was unfortunate enough to come within the ambit of the Act.

Mr. FULFORD: What is wrong with inserting "maximum penalty".

Mr. MACNAUGHT: It is not necessary.

Mr. FULFORD: It is done in most Acts. I think you will find that the judge has discretion.

Mr. ROBICHAUD: But some magistrates have the idea they must impose that fine, even in cases where there is a minimum.

Mr. OZERE: Under the law whenever there is a provision for a penalty without stating that there is a minimum the judge has the discretion to impose any lesser amount.

Mr. BROWNE: Unfortunately the magistrates do not know that.

Mr. STUART: I think one of the troubles might be—I can just speak on my own county—that the magistrates we have there, in my opinion, are not qualified and if you do not give them some guidance I am a little bit afraid of what might happen. I speak frankly because I have known cases come before them and a magistrate in my own town has no legal experience whatsoever and his attitude is to get anything he can get.

Mr. ROBICHAUD: That is exactly the point I was going to raise. Fortunately in New Brunswick we have some county magistrates who are lawyers but in several counties we have some hick magistrates that do not know their business and these are the fellows I am afraid of.

The CHAIRMAN: I am afraid we cannot enter into a discussion regarding the qualifications of magistrates.

Mr. MACINNIS: But I think that has a bearing on the suggestion made by Mr. Fulford that we give some guidance. Is there any reason why we could not put in the word "maximum"?

Mr. OZERE: The only reason would be that it would be poor legal drafting. If the committee thinks the word should go in, there is absolutely no objection except that one. That is the effect now, and therefore it would be superfluous.

Mr. CÔTÉ: In other words, the members of the committee would be going into the qualifications of certain magistrates.

The CHAIRMAN: Shall clause 8 carry?

Mr. BROWNE: I move that the words "not to exceed" be inserted before each amount and term as mentioned. Thus, line 20 will read, "upon conviction on indictment to a fine not to exceed twenty-five thousand dollars or to imprisonment for a term not to exceed two years", and then in line 23 a similar wording to be added, and also in lines 24, 28, 29, 31 and 32.

Mr. MACNAUGHT: There is no objection to the amendment proposed by Mr. Browne. Again I reiterate it does not add anything to what I understand is the law. The only persons who will be adversely affected by the proposed amendment, I suppose, will be the persons who drafted the Bill, and they probably won't care, so we have no objection.

The CHAIRMAN: Do you second the motion, Mr. MacNaught?

Mr. MACNAUGHT: Yes, I will second it.

The CHAIRMAN: It is moved by Mr. Browne, seconded by Mr. MacNaught that the words "not exceeding" be inserted in lines 20, 23, 24, 28, 29, 31 and 32. Would you prefer to use the words "not to exceed", Mr. Browne?

Mr. BROWNE: Whichever you like.

Mr. MACNAUGHT: "Not exceeding" is the accepted term.

The CHAIRMAN: I am informed that the term "not exceeding" is the correct terminology. So the amendment is that the words "not exceeding" be inserted in lines 20, 23, 24, 28, 29, 31 and 32, in place of the word "of".

Shall the amendment carry?

Carried.

Shall the clause as amended carry?

Carried.

On Clause 9: Shall clause 9 carry?

Carried.

On Clause 10:

10. (1) The *Customs and Fisheries Protection Act*, chapter 43 of the Revised Statutes of Canada, 1927, is repealed.

(2) Upon the coming into force of the Revised Statutes of Canada, 1952,

(a) the *Customs and Fisheries Protection Act*, chapter 59 of the Revised Statutes of Canada, 1952, is repealed, and

(b) section 9 of this Act is repealed and the following substituted therefor:

"9. All courts, justices of the peace and magistrates in Canada have the same jurisdiction with respect to offences under this Act as they have under sections 680 to 692 of the *Canada Shipping Act*, chapter 29 of the Revised Statutes of Canada, 1952, with respect to offences under that Act, and the provisions of those sections apply to offences under this Act in the same manner and to the same extent as they apply to offences under the *Canada Shipping Act*."

Mr. BROWNE: Mr. Chairman, before you pass clause 10, I wonder if the Parliamentary Assistant is in a position to say what is going to be the practice as soon as this Bill becomes law. At the present time the Spanish trawlers and the Portuguese trawlers are coming into Newfoundland ports to get supplies of goods and bait, and so forth. Will there be a gap between the present situation and the application of the new regulations to be issued under the Act?

Mr. STICK: Mr. Chairman, I do not want to answer Mr. Browne, but I think at the last meeting you said that the regulations in connection with this Act, as applicable to foreign fishing vessels coming to Newfoundland, would be applied for another year, that before these regulations shall apply to foreign fishing vessels a year will elapse. Is that correct?

Mr. OZERE: That is correct.

Mr. BROWNE: That is clear, then.

The CHAIRMAN: Yes.

Mr. STICK: That is what was said at the last meeting.

Mr. BROWNE: I was not here.

The CHAIRMAN: I think before we finish with this clause, Mr. Erichsen-Brown has an answer prepared to a question asked by Mr. Applewhaite at the last meeting.

Mr. ERICHSEN-BROWN: Mr. Chairman, on Monday Mr. Applewhaite asked the question; "what is the overriding international law which permits anybody to bring their ship into port under stress of weather, danger of loss of life, and so on." His question used the words "into port", but since that necessarily involves that the vessel would have to go through territorial waters, I am interpreting the question to mean, what are the circumstances under which a foreign vessel is justified in entering Canadian territorial waters under stress of weather, danger of loss of life, and so on.

I was in some doubt whether to give the committee a rather extensive answer on that question or to endeavour to summarize it. I have a statement prepared and I think possibly I might go on, and if it gets a little tiresome perhaps the committee could stop me. I may say at the outset that my purpose is to show the committee that the principles of international law would be applied by our courts. There is a general rule that a rule of international law is something that our courts will pay attention to, and if a statutory provision is not inconsistent with that rule of international law, it will be given effect. That principle was established in a leading case in England which was considered a few years ago by the Supreme Court of Canada in the Legations Reference case, which particularly concerned my department. My department also has a general concern with this question of the relationship between international law and domestic law.

There is in international law a right which is described as a "right of innocent passage", and I think that would be recognized by our courts. It is very closely related to the principle of domestic law to which Mr. Ozere referred the other day, namely, the principle that any person who is accused must have a guilty mind, *mens rea*, as they call it. In the process of determining whether he had a guilty mind under our domestic law, it seems to me the court would, of necessity, have to give effect to this general principle of international law. The rule of international law, as I have described it, is called the "right of innocent passage".

There is, as I have said, a general rule of international law which is generally referred to as "right of innocent passage". It is now generally accepted that a state has complete sovereignty over its territorial waters just as it has over its national waters, however it has been generally accepted by states that they should refrain from imposing the full penalties which might be prescribed as a matter of domestic law for a violation of territorial waters if the entry of the foreign vessel into territorial waters was of an "innocent" nature. The words "innocent passage" are somewhat difficult to define. As frequently happens we must rely on statements of legal authorities and they do not always express the rule in identical language. However, I have turned up a few authorities and there are a few statements which I might read out.

In 1930 there was a conference at the Hague when an effort was made to agree upon a code in which the law relating to territorial waters would be set forth. This conference was unable to agree, consequently the draft convention was never promulgated. However, I found that, when the convention was under consideration, there was a considerable measure of agreement between them on this question.

The draft convention before the conference prescribed that—and I quote—

Sovereignty over this belt is exercised subject to the conditions prescribed by this convention and the other rules of international law.

One of these other rules was the so-called right of innocent passage. It was stated that the coastal state might put no obstacles in the way of vessels navigating the territorial sea subject to the proviso that

No Act must be done prejudicial to the security, the public policy or fiscal interests of the state.

This provision was the subject of comment by Higgins and Colombos in their work entitled "International Law of the Sea". Perhaps I might read the following passage from page 73:

Coastal States can take all necessary steps to secure these rights, and by legislation, in conformity with international usage, a coastal State can provide for (a) the safety of traffic, protection of channels and of buoys; (b) protection against pollution of any kind; (c) protection of the products of the territorial sea; and (d) of the rights of fishing, shooting and analogous rights belonging to the coastal State.

I have some other references which I do not need to read but which I will put on the record, as follows:

From Oppenheim's International Law:

Although the maritime belt is a portion of the territory of the littoral State and therefore under the absolute territorial supremacy of such State, the belt is nevertheless, according to the practice of all the States, open to merchantmen of all nations for inoffensive navigation, cabotage excepted. And it is the common conviction that every State has by customary International Law the right to demand that in time of peace its merchantmen may inoffensively pass through the territorial maritime belt of every other State. Such right is correctly said to be a consequence of the freedom of the open sea, for without this right navigation on the open sea by vessels of all nations would in fact be an impossibility.

From Hackworth's Digest of International Law:

Over its territorial waters along the marginal sea, the control of the territorial sovereign is limited. While it may regulate at will matters pertaining to fisheries, enjoyment of underlying land, coastal trade, police and pilotage, the use of particular channels, as well as maritime ceremonial, it is not permitted to debar foreign merchant vessels from the enjoyment of what is known as the right of "innocent passage" . . .

So long as the conduct of a vessel of any kind is not essentially injurious to the safety and welfare of the littoral state, there would appear to be no reason to exclude it from the use of the marginal sea . . . In a word, the right of so-called innocent passage vanishes whenever the conduct of a ship is harmful to the territorial sovereign . . .

I shall conclude briefly by referring to the leading English case followed by the Supreme Court of Canada which I mentioned. The general principle is this: our courts on any judicial issue seek to ascertain what the relevant rule of international law is, and having found it, they will treat it as incorporated into our domestic law in so far as it is not inconsistent with the rules enacted by statutes, or finally declared by our tribunals.

Clause 7 of this Bill prohibits entry into territorial waters, and it says, at the end of sub-paragraph (a)(i) "contrary to this Act". In other words, this is not a general restriction, as I read it, but is a restriction which only applies to the entry into Canadian territorial water, "contrary to this Act"; and my understanding of the Act is that the whole purpose of the Act is to prevent fishing in territorial waters by foreign vessels. In other words, this Act has that as its specific objective. I feel reasonably sure that I am correct in saying

that our courts would have regard to the words "contrary to this Act", and would pay attention to this general principle of international law which admits the right of innocent passage. And in so far as it might be shown by a foreign vessel, I think it would be given the customary privileges which are generally accepted internationally. Therefore, I think if we were presented with a complaint by a foreign government under this clause of the Act, we would be able to justify the provision as it now reads.

Mr. ROBICHAUD: In respect to the principles which you have read, have you had regard to the old doctrine of "distress", which I think is to be found in international law. And I would refer you to Jessup on "Territorial Waters and Maritime Jurisdiction". There was a case in 1931 which I prosecuted in New Brunswick, the *King* against Flahaut, a famous case in which distress was considered.

Mr. ERICHSEN-BROWN: I have not referred to that case, but I have a case which was also decided in 1931, involving the steamship *May* out on the Pacific coast. It was interesting because it was brought under a section of the Customs Act which included the words "unless from distress of weather or other unavoidable cause".

The Privy Council upon appeal from the Supreme Court of Canada said that those words merely confirmed international law on the subject. In other words "stress of weather" comes within the more general right of "innocent passage" to which I referred.

Mr. APPLEWHAITE: Let us suppose that a foreign ship gets knocked about by water and has to run to the shore or sink. I have always assumed there was an over-riding international law which would set aside any action which might be brought against that ship for an infraction of customs or fisheries provisions or anything else because of the saving of life. Am I to take it that that is so from what Mr. Erichsen-Brown has told us today?

The CHAIRMAN: Yes, I think that is so.

Mr. BROWNE: Mr. Chairman, may I ask one or two questions relating to matters which have already been considered?

The CHAIRMAN: Your former question has been answered to your satisfaction, I take it?

Mr. BROWNE: Yes, Mr. Chairman. I am interested in those matters which apply with respect to vessels which come to Newfoundland, such as French, Italian, Portuguese and so on, and the extension of the regulations? Was there any conclusion reached on the question of Canadian territorial waters and the definition here?

Mr. MACNAUGHT: The Minister made a statement at the first meeting of the committee, and you will find it in the record of our proceedings, to the effect that a committee composed of representatives from the various interested departments was making a thorough study of that matter at the present time. As soon as his report is received it would be studied by the government and if changes are indicated then under a certain section of this Act, such changes can be immediately made.

Mr. BROWNE: Was any consideration given to the question of foreign sailing vessels which come into Newfoundland? The Norwegians come there every year.

The CHAIRMAN: That would be covered, I think, under foreign fishing vessels.

Mr. BROWNE: They take on Newfoundland crews; and they sometimes take on pilots and navigators.

The CHAIRMAN: It would still be a foreign fishing vessel. But does that not refer to those ships which clear from Halifax rather than those which come from Norway? Not to my knowledge or recollection have there been any cases where ships which came out from Norway to operate in the ice fields of Newfoundland, have taken on any Newfoundland crews.

Mr. BROWNE: Has the question of their being brought within Newfoundland territorial waters been considered?

The CHAIRMAN: As I understand it this Act would apply to them.

Mr. BROWNE: For the purpose of taking seals? They would not be entitled to do that, would they?

The CHAIRMAN: A seal is a mammal not a fish and they cannot take them inside our territorial waters unless they get a permit. They can get a permit, maybe? I think there was a case a year or so ago in which a Norwegian ship was seen, from the Newfoundland shore, picking up seals. Whether or not those seals had been killed by her crew outside the three mile limit and had been driven in by the current—for as you know, sometimes these seals are brought in by the ice flows—and if the seals had been caught, killed, and pelted outside the three mile limit, and then they had come inside the three mile limit, would raise a question in my mind whether or not they ever became our property; that is, coming within the Canadian territorial limits, whether or not they could be taken as being Canadian or whether they could still be claimed as having been killed outside.

I mention that case because it really happened. I was informed that some people on shore had seen one of the Norwegian vessels taking some seals. That is, while these people were on shore, they had seen the Norwegian crew taking them on board. So it is a point which I think needs to be looked into and no doubt will be carefully gone into by the department.

Shall clause 10 carry?

Carried.

Shall the Title carry?

Mr. PEARKES: What is the meaning of what appears to be a clause 9 following clause 10 on page 6?

Should not clause 9 on page 6 read clause 11? I do not understand it, or is it a new way of numbering in international law?

Mr. APPLEWHAITE: If you read the whole clause you will understand it.

Mr. PEARKES: If it is a part of clause 10, should it not be a smaller figure 9 or not such a black figure 9?

Mr. APPLEWHAITE: I looked at it for a minute, but I find that it gives clause 10 the words which clause 9 will receive, as at the foot of page 5 of the bill, when the new Revised Statutes of Canada come into effect.

The CHAIRMAN: Yes, that is correct. In paragraph (b) it says:

(b) section 9 of this Act is replaced and the following substituted therefor:

And then it specifies as follows:

9. All courts, justices of the peace and magistrates in Canada have the same jurisdiction with respect to offences under this Act as they have under sections 680 to 692 of the *Canada Shipping Act*, chapter 29 of the Revised Statutes of Canada, 1952, with respect to offences under that Act, and the provisions of those sections apply to offences under this Act in the same manner and to the same extent as they apply to offences under the *Canada Shipping Act*.

Mr. PEARKES: I was bewildered.

The CHAIRMAN: But now you are satisfied?

Mr. PEARKES: I am satisfied if you are, Mr. Chairman.

The CHAIRMAN: Shall the Title carry?

Carried.

Shall the Bill as amended carry?

Carried.

Shall I report the Bill as amended?

Agreed.

That completes the matter which has been referred to the committee at this time and I would like to express on my own behalf my thanks to the witnesses and the members of the committee for their co-operation, assistance, and interest in this regard. Now, a motion to adjourn is in order. It has been moved by Mr. Stick and seconded by Mr. MacInnis that we adjourn, to the call of the chair. All those in favour will say "aye", contrary "nay"?

Carried.







Gov. Doc  
Can  
Com  
M

Canada, Finance  
Auditing Committee, 1952/53

HOUSE OF COMMONS

Seventh Session—Twenty-first Parliament  
1952-53

C41 86  
-H12

---

STANDING COMMITTEE

ON

MARINE AND FISHERIES

*Chairman: T. G. W. ASHBOURNE, Esq.*

---

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

---

TUESDAY, APRIL 28, 1953

---

Bill No. 341

An Act to implement a Convention between Canada and the United States for the preservation of the Halibut Fishery

including

Third Report to the House

WITNESSES:

Mr. Stewart Bates, Deputy Minister; Mr. G. R. Clark, Assistant Deputy Minister; Mr. S. V. Ozere, Director, Legal Service; all of the Department of Fisheries.

STANDING COMMITTEE  
ON  
MARINE AND FISHERIES

*Chairman:* T. G. W. Ashbourne, Esq.

*Vice-Chairman:* A. W. Stuart, Esq.

Messrs:

Applewhaite	Gibson	MacInnis
Arsenault	Gillis	MacLean ( <i>Queens</i> )
Balcom	Harrison	MacNaught
Bennett	Henderson	Maltais
Black ( <i>Cumberland</i> )	Higgins	McLean ( <i>Huron-Perth</i> )
Blackmore	James	McLure
Breton	Kirk ( <i>Antigonish-</i>	Mott
Browne ( <i>St. John's</i>	<i>Guysborough</i> )	Pearkes
West)	Langlois ( <i>Gaspé</i> )	Robichaud
Cannon	Leger	Stick
Côté ( <i>Matapedia-</i>	Macdonald ( <i>Edmonton</i>	Thomas
<i>Matane</i> )	<i>East</i> )	Wood
Fulford		

(Quorum—10)

A. SMALL,  
*Clerk of the Committee.*

## ORDER OF REFERENCE

WEDNESDAY, April 22, 1953.

*Ordered*,—That the following Bill be referred to the said Committee:

Bill No. 341, An Act to implement a Convention between Canada and the United States for the Preservation of the Halibut Fishery.

*Attest.*

LEON J. RAYMOND,  
*Clerk of the House.*

## REPORT TO THE HOUSE

TUESDAY, April 28, 1953.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

### THIRD REPORT

Your Committee has considered Bill No. 341, An Act to implement a Convention between Canada and the United States for the Preservation of the Halibut Fishery, and has agreed to report it without amendment.

A copy of the Minutes of Proceedings and Evidence of your Committee is appended.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*



## MINUTES OF PROCEEDINGS

TUESDAY, April 28, 1953.

The Standing Committee on Marine and Fisheries met at 10.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Ashbourne, Bennett, Browne (*St. John's West*), Fulford, Gibson, Gillis, Macdonald (*Edmonton East*), MacLean (*Queens, P.E.I.*), MacNaught, McLean (*Huron-Perth*), McLure, Pearkes, Robichaud, Stick, Stuart, (*Charlotte*), and Wood—16.

*In attendance:* Mr. Stewart Bates, Deputy Minister, Mr. G. R. Clark, Assistant Deputy Minister, and Mr. S. V. Ozere, Director, Legal Service, all of the Department of Fisheries.

The Chairman read the Order of Reference of April 22, 1953.

On motion of Mr. Browne (*St. John's West*),

*Ordered*,—That the quantity to be printed in English of the Committee's Minutes of Proceedings and Evidence be reduced from 750 to 600 copies in respect to Bill No. 341.

Messrs. Bates, Clark and Ozere were called, heard and questioned on the purpose of Bill No. 341, An Act to implement a Convention between Canada and the United States for the Preservation of the Halibut Fishery.

On Clauses 1 to 11 inclusive:

The said clauses were severally considered and adopted.

On the Schedule:

Articles I to V inclusive and the Preamble to the Schedule were severally considered and adopted.

The Title was considered and adopted.

The Bill was adopted.

The witnesses retired.

*Ordered*,—That the Chairman report the Bill to the House without amendment.

At 10.30 o'clock a.m., the Committee adjourned *sine die*.

A. SMALL,  
*Clerk of the Committee.*



## MINUTES OF EVIDENCE

APRIL 28, 1953.  
10.00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum.

The matter before us this morning for consideration is Bill No. 341. The terms of reference read "*Ordered*,—That the following Bill be referred to the Marine and Fisheries Committee: Bill No. 341, An Act to implement a Convention between Canada and the United States for the Preservation of the Halibut Fishery."

We have with us this morning Mr. Stewart Bates, the Deputy Minister of Fisheries; Mr. G. R. Clark, Assistant Deputy Minister of Fisheries; and Mr. S. V. Ozere, Director, Legal Service.

We would like to hear from Mr. Bates first, but before going on perhaps the committee would like to decide whether or not any change is necessary in its existing powers, particularly with reference to the printing of the evidence. At present we have orders to print 750 copies in English and 200 copies in French. Does the committee wish any change in that.

Mr. BROWNE: Does not that seem too many? This only applies to the Pacific coast. It is not general application. Would not half that number suffice? I move that...

The CHAIRMAN: I have been informed by the Clerk of the Committee that he thinks it would be better to have 600 copies in English, if that is satisfactory to you, Mr. Browne.

Mr. BROWNE: Certainly.

The CHAIRMAN: Is the motion seconded?

Mr. FULFORD: I second the motion.

The CHAIRMAN: Moved and seconded that we print 600 copies in English and 200 copies in French. Are you ready for the question? Those in favour? Opposed?

Carried.

We would be glad at this point to hear from Mr. Bates.

Mr. STEWART BATES (*Deputy Minister of Fisheries*): Mr. Chairman, and gentlemen, the changes recommended in the existing halibut treaty—halibut commission powers—are not complicated. They are four in all. The first is a simple one, a change in the Title. When this Halibut treaty was first passed, it was the only fisheries treaty of its kind and it was called in the original treaty and the subsequent Bill the International Fisheries Commission.

There are quite a number of commissions set up now and it seems proper this one should be distinguished by its proper title that is The Halibut Commission, so there is a suggested change in title for that reason.

The second change is at the request of the United States to increase the number of commissioners on each side from two to three. The Americans in particular wish to have representation from Alaska which they have not been able to achieve with only two commissioners. They already have a federal commissioner and a commissioner from the State of Washington and are anxious to get the number increased to cover representation from Alaska. We have no objection to that. We will have three on the Canadian side to round out our representation, also.

The third point is to give the commission power which it is doubtful it now has. That is, the power to establish more than one open season during the year. At present the United States legal authorities feel that the powers in the existing Act permit the commission to have only one open season. Now, for full utilization of the stocks, it may be necessary to have more than one open season and this third change is to give the commission that power.

The fourth change has to do with the incidental catching of halibut when people are fishing for other species, and the power requested here is that the commission should be able to regulate the incidental catch during the open season as well as the closed season.

Mr. Chairman, we have here with us our Assistant Deputy Minister, Mr. Clark, who is one of the Canadian representatives on the Halibut Commission and he is prepared to answer any questions on the operations of the commission. I thought the committee would be pleased to have him with us.

The CHAIRMAN: Thank you very much indeed, Mr. Bates. Would you like first, Mr. Clark, to make a statement?

Mr. G. R. CLARK (Assistant Deputy Minister of Fisheries): I think Mr. Bates has covered it pretty fully unless there are any questions I can answer on the actual operations of the commission.

The CHAIRMAN: We shall take up the Bill for consideration clause-by-clause.

Shall Clause 1 carry?

Mr. BROWNE: Before you go on with that, may I ask who are the other Canadian commissioners?

Mr. CLARK: The other Canadian commissioner is Mr. George Nickerson of Prince Rupert, B.C.

Mr. BROWNE: Are you going to have a third?

Mr. CLARK: Under this, it is proposed. He has not yet been appointed.

Mr. BROWNE: Is Mr. Nickerson a civil servant?

Mr. CLARK: No. He is the representative representing the industry-at-large on the commission.

Mr. BROWNE: And who would the third commissioner represent?

Mr. CLARK: It all depends on what the government decides to do. It is a matter of policy and we assume it is a matter for the government to decide what representation we have.

Mr. MACNAUGHT: In connection with that, I recall that the Minister when he made his statement in the House on the second reading stage of this Bill pointed out it was hoped it would be possible to get a representative from the fishermen.

Shall Clause 1 carry?

Carried.

Shall Clause 2 carry?

Mr. McLURE: In Clause 2, "halibut". Does this Bill deal with any other fish?

Mr. CLARK: Just with halibut.

Mr. McLURE: It says here it belongs to the species known as *hippoglossus*.

Mr. ROBICHAUD: I might remark if my Greek is right *hippoglossus* means glossy horse.

The CHAIRMAN: Shall Clause 2 carry?

Carried.

Mr. BROWNE: Mr. Chairman, I understand there was a previous Bill. What is the difference between the provisions in this Bill and the previous Bill?

Mr. OZERE: There are a few differences. The old Act is revised to bring it into line with modern practice and if the members are interested I could go over the changes.

The CHAIRMAN: Shall Clause 2 carry?

Carried.

Shall Clause 3 carry?

Carried.

Shall Clause 4 carry?

Carried.

Shall Clause 5 carry?

Mr. FULFORD: In the second part it says "... anywhere in the convention waters except the territorial waters of the United States". Is that the 12-mile limit or three-mile limit?

Mr. OZERE: Three-mile limit.

The CHAIRMAN: Shall Clause 5 carry?

Carried.

Shall Clause 6 carry?

Mr. McLURE: It says there in Clause 6 that they might seize a vessel if it had some other fish in it or if they hay anything they might be suspected of taking out of season. For instance, there might be fur seals. There is a great deal of discussion about that now between Japan and the U.S.S.R. and there is an investigation, I understand, going on with reference to that at the present time. Supposing a vessel is seized up there and they find any of those aboard, what happens?

Mr. OZERE: Mr. Chairman, the enforcement of the sealing convention: "The Provisional Fur Seal Agreement" is carried out under the *Pelagic Sealing Act*. This Bill only relates to halibut.

Mr. STICK: This is between the United States and Canada?

Mr. OZERE: Yes.

Mr. STICK: This does not give us authority to seize a Japanese vessel?

Mr. OZERE: No. This would give no authority except over United States vessels.

The CHAIRMAN: Shall Clause 6 carry?

Carried.

Mr. BROWNE: Will the American Government pass an Act similar to this?

Mr. OZERE: They have a similar Act now.

Mr. BROWNE: And the new Act will be like this one?

Mr. OZERE: That is right.

The CHAIRMAN: Shall Clause 6 carry?

Carried.

Shall Clause 7 carry?

Carried.

Shall Clause 8 carry?

Carried.

Shall Clause 9 carry?

Carried.

The CHAIRMAN: Shall Clause 10 carry—"Jurisdiction of Courts"?

Carried.

Shall Clause 11 carry—"Repeal and Coming into Force"?

Carried.

Now, the Schedule. Shall Article I of the Schedule carry?

Carried.

Shall Article II carry?

Carried.

Shall Article III carry?

Carried.

Shall Article IV carry?

Carried.

Shall Article V carry?

Carried.

Shall the Preamble to the Schedule carry?

Carried.

Shall the Title carry?

With reference to the Title, gentlemen, I notice that it says it is *An Act to implement a Convention between Canada and the United States for the Preservation of the Halibut Fishery*, and some members have thought that possibly it might be advisable to put the *United States of America* in there. I have taken up the matter with the Parliamentary Assistant, Mr. MacNaught, and perhaps he will make a statement regarding that.

Mr. MACNAUGHT: The "United States", under the *Interpretation Act*, means the "United States of America".

The CHAIRMAN: So that point is covered in the *Interpretation Act*.

Mr. FULFORD: It would not be the "United States of Brazil"?

Mr. MACNAUGHT: It is covered in the *Interpretation Act*—"United States" means "United States of America".

Mr. ROBICHAUD: In connection with the Title of the Bill, may I suggest that the words "of the Northern Pacific Ocean and Bering Sea" be inserted in order to bring the Bill in to line with the convention itself. This only covers the halibut fishery of the Northern Pacific Ocean.

Mr. MACNAUGHT: If you will look at the Short Title, you will see that that point is covered there. The short title is *Northern Pacific Halibut Fishery Convention Act*.

Mr. ROBICHAUD: Yes, in clause 1, but what I mean is that the Title of the Bill should have those additional words because, after all, that is the name of the Act. It is more or less a suggestion of mine, but I think it is in order.

The CHAIRMAN: Does not Mr. MacNaught's explanation satisfy the point you raise, Mr. Robichaud?

Mr. ROBICHAUD: No. I was aware of the words in clause 1, and in clause 2(6) those words appear, but I still believe it would be clearer if, in the Title of the Act it specified fisheries "of the Northern Pacific Ocean and the Bering Sea" because, after all, this is the object of the Bill.

Mr. STICK: I want to revert back. When you seize a vessel which is caught with halibut out of season and you have some other fish on board, what do you do then? Does this Act give you the power to seize the other fish as well, or just the halibut?

Mr. OZERE: I think this would give us the power to seize all fish.

Mr. STICK: It does not specify that here. That will be settled by the court, I suppose?

Mr. OZERE: I think so.

The CHAIRMAN: On the point brought up by Mr. Robichaud regarding the extension of the Title—what do the other members of the committee think of that?

Mr. STICK: I think this is specific enough. It defines the territorial waters which the convention covers. Mr. Robichaud may have a point there, but it seems to me, on the face of it, that it covers the territory the treaty wishes to cover.

The CHAIRMAN: It is, of course, covered in the Act itself, in the Definition and in the Short Title, and by the *Interpretation Act*.

Shall the Title carry?

Carried.

Shall the Bill carry?

Carried.

Shall I report the bill?

Agreed.

Now, gentlemen, the business of the committee is finished as far as this Bill is concerned, and, unless there is any other business to be brought forward, I would like to say that the committee is adjourned *sine die*. I want to thank you for your attention.











Gov. Doc  
an  
Com  
M

Canada, Marine and Fisheries, Standing  
Committee on, 1955.  
C41 X-17  
-H12

HOUSE OF COMMONS

Second Session—Twenty-second Parliament  
1955

(STANDING COMMITTEE

ON

MARINE AND FISHERIES

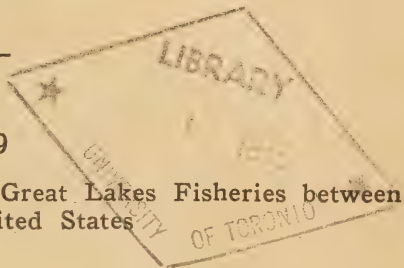
Chairman: T. G. W. ASHBOURNE, Esq.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

BILL 279

An Act to Implement a Convention on Great Lakes Fisheries between  
Canada and the United States



FRIDAY, MAY 13, 1955

MONDAY, MAY 16, 1955

WITNESSES:

Dr. A. L. Pritchard, Director, and

Dr. W. M. Sprules, Assistant Director, Conservation and Development  
Service, Department of Fisheries.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1955

STANDING COMMITTEE

ON

MARINE AND FISHERIES

*Chairman:* T. G. W. Ashbourne, Esq.

*Vice-Chairman:* A. W. Stuart, Esq.

Messrs:

Anderson	Goode	McDonald ( <i>Parry</i>
Applewhaite	Hardie	<i>Sound-Muskoka</i> )
Arsenault	Harrison	Murphy ( <i>Lambton West</i> )
Ashbourne	Henderson	Nowlan
Barnett	Hodgson	Patterson
Bell	Kirk ( <i>Antigonish-</i>	Pearkes
Bennett ( <i>Grey North</i> )	<i>Guysborough</i> )	Robichaud
Boivin	Kirk ( <i>Shelburne-</i>	Stick
Brisson	<i>Yarmouth-Clare</i> )	Stuart ( <i>Charlotte</i> )
Bryce	MacNaught	Thibault
Cameron ( <i>Nanaimo</i> )	Maltais	Thomas
Cannon	Matheson	Trainor
Ferguson		Weselak

(Quorum—10)

Eric H. Jones,  
*Clerk of the Committee.*

## ORDERS OF REFERENCE

HOUSE OF COMMONS,  
FRIDAY, February 4, 1955

Resolved,—That the following Members do compose the Standing Committee on Marine and Fisheries:

Messrs:

Anderson	Goode	Matheson
Applewhaite	Hardie	McDonald
Arsenault	Harrison	Nowlan
Ashbourne	Henderson	Patterson
Barnett	Hodgson	Pearkes
Bell	Kirk ( <i>Antigonish-</i>	Robichaud
Bennett ( <i>Grey North</i> )	<i>Guysborough</i> )	Stick
Boivin	Kirk ( <i>Shelburne-</i>	Stuart ( <i>Charlotte</i> )
Brisson	<i>Yarmouth-Clare</i> )	Thibault
Bryce	MacLean	Thomas
Cameron ( <i>Nanaimo</i> )	MacNaught	Trainor
Cannon	Maltais	Weselak—35.
Ferguson		

(Quorum 10)

FRIDAY, February 4, 1955.

That the Standing Committee on Marine and Fisheries be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon, with power to send for persons, papers and records.

MONDAY, April 25, 1955.

That the following Bill be referred to the said Committee:

Bill No. 279, An Act to Implement a Convention on Great Lakes Fisheries between Canada and the United States.

FRIDAY, May 13, 1955.

That the said Committee be empowered to print from day to day, 750 copies in English and 250 copies in French of its Minutes of Proceedings and Evidence and that Standing Order 64 be suspended in relation thereto.

That the said Committee be granted leave to sit while the House is sitting.

That the name of Mr. Murphy (*Lambton West*) be substituted for that of Mr. MacLean on the said Committee.

Leon J. Raymond,  
Clerk of the House.

## STANDING COMMITTEE

## REPORTS TO THE HOUSE

FRIDAY, May 13, 1955.

The Standing Committee on Marine and Fisheries begs leave to present the following as its

## FIRST REPORT

Your Committee recommends:

1. That it be empowered to print, from day to day, 750 copies in English and 250 copies in French of its Minutes of Proceedings and Evidence and that Standing Order 64 be suspended in relation thereto.

2. That it be granted leave to sit while the House is sitting.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*

MONDAY, May 16, 1955.

The Standing Committee on Marine and Fisheries begs leave to present the following as its

## SECOND REPORT

Your Committee has considered Bill No. 279, An Act to Implement a Convention on Great Lakes Fisheries between Canada and the United States, and has agreed to report it without amendment.

A copy of the evidence adduced in respect of the said Bill is appended hereto.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*

## MINUTES OF PROCEEDINGS

FRIDAY, May 13, 1955.

The Standing Committee on Marine and Fisheries met at 10.00 o'clock a.m. this day. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs, Applewhaite, Ashbourne, Barnett, Bennett (*Grey North*), Bryce, Cameron, (*Nanaimo*), Goode, Kirk (*Shelburne-Yarmouth-Clare*), Matheson, Patterson, Pearkes, Stick, Stuart (*Charlotte*), Thibault and Weselak.

The Chairman thanked the Committee for the honour again conferred on him by his appointment as Chairman. He read the Order of Reference dated February 4, 1955, by which the Committee was constituted, and that of April 25, 1955, which referred to the Committee Bill No. 279, An Act to Implement a Convention on Great Lakes Fisheries between Canada and the United States.

On motion of Mr. Applewhaite,

*Resolved*,—That Mr. Stuart (*Charlotte*) be Vice-Chairman of the Committee.

On motion of Mr. Bennett (*Grey North*),

*Resolved*,—That a Sub-Committee on Agenda and Procedure, comprised of the Chairman and 6 Members to be named by him, be appointed.

On motion of Mr. Thibault,

*Resolved*,—That the Committee request leave to sit while the House is sitting.

On motion of Mr. Stuart (*Charlotte*),

*Resolved*,—That the Committee seek permission to print, from day to day, 750 copies in English and 250 copies in French of its Minutes of Proceedings and Evidence.

At 10.15 o'clock a.m., on motion of Mr. Stick, the Committee adjourned until 10.30 o'clock a.m. on Monday, May 16, 1955.

Eric H. Jones,  
*Clerk of the Committee.*

MONDAY, May 16, 1955.

The Standing Committee on Marine and Fisheries met at 10.30 o'clock a.m. this day. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Barnett, Bryce, Cameron (*Nanaimo*), Goode, Hardie, Hodgson, Kirk (*Antigonish-Guysborough*), MacNaught, Matheson, Murphy (*Lambton West*), Patterson, Pearkes, Stick and Stuart (*Charlotte*).

*In attendance:* The Honourable James Sinclair, Minister of Fisheries, and the following departmental officials: Mr. George R. Clark, Deputy Minister; Dr. A. L. Pritchard, Director, and Dr. W. M. Sprules, Assistant Director, Conservation and Development Service.

The Clerk of the Committee read the Orders of Reference dated May 13, 1955.

The Committee proceeded to consider Bill No. 279, An Act to Implement a Convention on Great Lakes Fisheries between Canada and the United States. (*Bill No. 279, which includes the text of the Convention, appears as Appendix "A" to this day's minutes of proceedings and evidence.*)

The Honourable Mr. Sinclair explained the purpose and application of the convention and the bill and answered questions thereon.

The Committee was then shown motion picture entitled *The Sea Lamprey*. Dr. Pritchard and Dr. Sprules were called, questioned and retired.

Mr. Murphy (*Lambton West*) table five statistical tables compiled by the Department of Fisheries, as follows:

1. CANADA—Catch of Trout in Great Lakes, by Lakes and Total Ontario—1930-1953.
2. CANADA—Catch of Whitefish in Great Lakes, by Lakes and Total Ontario, 1930—1953.
3. Catch of Whitefish in the U.S.A. between 1930-1953.
4. Catch of Lake Trout, 1885-1952—U.S.A.
5. Great Lakes Commercial Fishery Statistics, by Lakes—Quantities and Values—U.S.A., Canada and Totals, 1930—1953.

*Ordered*,—That the said tables be printed as appendices to this day's minutes of proceedings and evidence. (*See Appendices "B", "C", "D", "E", and "F" respectively.*)

The Committee considered Bill No. 279, clause by clause. The several clauses, the schedule, the preamble and the title of the bill were adopted; the bill was carried.

*Ordered*,—That the Chairman report the said bill to the House without amendment.

Pursuant to a resolution of the Committee at its meeting of May 13, 1955, the Chairman then named six members to serve with him on the Sub-Committee on Agenda and Procedure, as follows: Messrs. Applewhaite, Bryce, MacNaught, Murphy (*Lambton West*), Patterson and Stuart (*Charlottetown*).

At 12.30 o'clock p.m., the Committee adjourned to the call of the Chair.

Eric H. Jones,  
Clerk of the Committee.

## EVIDENCE

MONDAY, May 16, 1955  
10:30 a.m.

The CHAIRMAN: Order, gentlemen. I see a quorum. I will first ask the clerk of the committee kindly to read the orders of reference.

*(The clerk of the committee read the orders of reference dated Friday, May 13, 1955.)*

The CHAIRMAN: Thank you, Mr. Jones.

I would like to welcome Mr. Murphy of Lambton West who has been substituted for Mr. MacLean as a member of this committee.

We are very glad to have with us this morning the Minister of Fisheries, the Honourable James Sinclair, and I shall now ask him to outline the program to be submitted to the committee.

The Hon. JAMES SINCLAIR (*Minister of Fisheries*): Gentlemen, I am not here as a witness. We have expert witnesses with us today in the persons of Dr. Pritchard and Dr. Sprules who are officials of the department.

As you know the Great Lakes Fisheries have been under the administration of the provincial government of Ontario for some years, and it was in conjunction with that government that we were able to negotiate this international treaty to conserve Great Lakes fish. Since our direct interest in the fisheries themselves, as a federal department, dates only from a year ago, we thought one of the first things we should do would be to compile an authentic study of Great Lakes fisheries.

This study is the work of our department which has turned out this publication which I am holding in my hand and which contains the whole story of Great Lakes fisheries as far as statistics are concerned. This book is not put out by the Queen's Printer. We have a small mimeograph machine in our department and this book is turned out by us. Circulation of our publications is very small, as you may remember from last year's debate on publications in the House. We have however sufficient copies for the members of the committee and they will be circulated.

This will interest members from the province of Ontario particularly, because here is the whole story of Great Lakes fisheries to date. I think the best way to inform you about one or two of the problems of the sea lamprey would be to show you a very excellent film on the lamprey prepared by the United States Fish and Wild Life Service. And when that is over, we actually have lampreys of various sizes here to show you, so that you can actually see the parasites.

As I have said, we have with us Dr. Pritchard and Dr. Sprules of our department. Dr. Sprules is our top expert in fresh water fish and he is here to answer questions.

By the time you have seen the film you will have understood the problem of the lamprey. Both these gentlemen are quite competent to answer any questions you may care to ask them. Thank you.

The CHAIRMAN: Thank you, Mr. Sinclair.

I think for the purpose of the film being shown it would be better for the members to leave their seats at the table and move to the rear of the room in order to get a better view of the screen.

*(At this point a film on the sea lamprey was shown.)*

Upon resuming.

The CHAIRMAN: Gentlemen, I am sure we have all been greatly impressed by the very interesting and most informative motion picture which, in its detail, has given us a good portrait of the damage which is being done to this important fishery in the Great Lakes, and of the great need of trying to stamp out the sea lamprey and destroy it in order to protect the good fish such as the trout and other fish which are found in the lakes, for our fishermen.

I would like to thank Mr. Turner of the Department of Fisheries who brought the film here this morning, and I am sure that having viewed this film we are now in a position to proceed with the bill.

The bill before us today is Bill No. 279 "An Act to Implement a Convention on Great Lakes Fisheries between Canada and the United States". (Bill No. 279, which includes the Convention, appears as Appendix "A" to this day's minutes of proceedings and evidence.) Shall clause 1 carry?

1. This Act may be cited as the *Great Lakes Fisheries Convention Act*.

Mr. STUART (*Charlotte*): Mr. Chairman, I would like to ask one question. There is a great demand for eels on the east coast, and the price is always most encouraging to the fishermen. Is there any value in this particular type of eel as a food? Is there any demand for it at all?

The CHAIRMAN: We have with us this morning Mr. G. R. Clark, the Deputy Minister of Fisheries, Dr. A. L. Pritchard and Dr. W. M. Sprules, and they will be glad to answer any questions.

Perhaps in answering Mr. Stuart's question, it might be in order if we heard first from Dr. Pritchard.

Dr. A. L. PRITCHARD (*Director, Conservation and Development Service, Department of Fisheries*): I think it should be explained that the eel to which you refer on the Atlantic coast is not the same as the sea lamprey.

Mr. STUART (*Charlotte*): I realize that.

Dr. PRITCHARD: You know that is what we call a bony fish, while the lamprey is a very simple cartilaginous fish. In the central European countries these are used for food and have been used, of course, in England. But no taste for them has been developed on this continent, although there is a limited market particularly amongst those people who have come from central European countries, and there is a very limited market for them in New York.

The province of Ontario did collect these lampreys and sell them through, particularly, Latvian people. They can be prepared and they are eaten; but we in Canada and the United States have developed no real taste for them.

Mr. APPLEWHAITE: Is that the only area in Canada where lampreys are a menace on a commercial scale?

Dr. PRITCHARD: Actually, the Great Lakes is the only area that we know of. They have become abundant and are really doing great damage.

Mr. HODGSON: They are to be found in a great many of our inland lakes in Ontario.

Dr. PRITCHARD: There are lampreys there, but not these marine lampreys. You see, there are two types of lampreys, even in the Great Lakes, the fresh water species and the marine species. The fresh water species have never reached epidemic proportions, but the marine species, apparently, when it did get in there, has spread to that extent.

Mr. MURPHY (*Lambton West*): Do you happen to have a copy of the chart or the figures which were given to me by Dr. Pritchard? I think they are so important that they should be placed on the record.

Hon. Mr. SINCLAIR: Dr. Sprules has charts to show the effect on the fisheries.

Mr. MURPHY (*Lambton West*): Would you like to call him?

Hon. Mr. SINCLAIR: Surely. He will mount the charts and go through them, and then you will have a better idea.

Dr. W. M. SPRULES (*Assistant Director, Conservation and Development Service, Department of Fisheries*): Mr. Chairman and gentlemen, this graph attempts to portray the change in lake trout production in our Canadian upper Great Lakes from 1920. You have 1920 here moving through to 1953. This is the Lake Huron production which is exclusive of Georgian Bay. I will explain in a moment why we excluded it. The long term average for 20 years is about at this level, something around  $2\frac{1}{2}$  million pounds per annum. That production, with some annual fluctuation here, has suddenly, with the onset of the lamprey which established itself in 1936, fallen right down to nothing, as you can see, from something over 2 million pounds. The Georgian Bay catch was a little lighter,  $1\frac{1}{2}$  million pounds approximately, which ran along well until it finally declined. At the present time there is a residual population of lake trout maintaining itself in Georgian Bay. There is every indication from our records this year that it is now about to decline off the chart also. The Lake Superior Canadian catch which has had a long term average of  $1\frac{1}{2}$  million pounds with fluctuations has continued to maintain itself. Lake Superior, as you will recall from the map, was the farthest point to which the lamprey had to gain access, and we started a program of control with electrical barriers following very much the American procedure. We have put all our effort into Lake Superior in an attempt to maintain the lake trout population, in Lake Superior.

This is a reclamation project now in Lake Huron and also in the American Lake Michigan, but we think we may, if our control is soon enough and good enough, be able to maintain a population in Lake Superior which will give us a source of supply to re-establish lake trout in the Great Lakes.

Mr. MURPHY (*Lambton West*): Have you a copy of the figures given to me by your department?

Dr. SPRULES: Yes.

Mr. MURPHY (*Lambton West*): Would you hand them to the chairman, please, and let the minister see them? It is the small sheet, the figures of the catch of lake trout in the Great Lakes. It shows the catch from 1930 to 1955 in Superior, Huron north channel and Georgian Bay. Would you show that to the chairman and the minister? I think it is so important that it should go on the record.

The CHAIRMAN: Is it agreed—as an appendix?

Agreed.

Mr. MURPHY (*Lambton West*): Now then, Doctor, I happen to live on Lake Huron and that is one reason I am primarily interested in the work of this committee. First, you tell us that the lamprey was noticed in Lake Huron about 1936?

Dr. SPRULES: Yes. Our first authentic record in Lake Huron was 1937 but this does not mean that they were not there before that. It means it is the first specimen a competent scientist obtained there and identified.

Mr. MURPHY (*Lambton West*): I will refer to the figures for the Canadian catch of lake trout in the whole of Lake Huron in your table which I have here. In 1930 it was approximately 2,934,800 pounds, and in 1953 it was practically nothing. Is that right?

Dr. SPRULES: Well, to all intents and purposes.

Mr. MURPHY (*Lambton West*): A mere infinitesimal figure. I just want that on the record to show that something must be done.

Dr. SPRULES: You are speaking of this decline from  $2\frac{1}{2}$  million pounds. It would be of interest to show the similarity in the American production.

Lake Michigan—this scale is larger now; we are up to several million pounds. The long term average in Lake Michigan had been about 6 million pounds through this period and it dropped down within a period of 8 years to nothing and in Lake Michigan now even on the known lake spawning beds they are not able to seine or obtain lake trout in any way. The Lake Huron decline does not seem so precipitous but there was an average of 1.5 million pounds which dropped off again to nothing. Their Lake Superior catch is similar to ours, about 3 million pounds annual production and it has stayed quite constant. We hope in our program we can keep it up there but there is some indication that we may not be able to complete the program until too late, but we shall be able to keep some population I am sure.

Mr. MURPHY (*Lambton West*): While we are on these charts I hope that the committee will agree, perhaps, that we should discuss the other fish also. This chart concerns not only the catch of lake trout but also whitefish in the Great Lakes. The catch of whitefish in the U.S.A. between 1930 and 1953, and the catch of lake trout 1895 to 1952 in the U.S.A.

The CHAIRMAN: I think it would be interesting to have these statistical tables printed as appendices to the record provided it is agreeable to the committee. Is it agreed, gentlemen?

Agreed.

(See Appendices "B", "C", "D" "E" and "F", to this day's minutes of proceedings and evidence.)

Mr. MURPHY (*Lambton West*): Now, Doctor, when you first discovered this lamprey had you any precedent to go on in the way of combating it?

Hon. Mr. SINCLAIR: Our department does not administer the Great Lakes fisheries. It is only in the last year our department has been called in on the matter. The government of Ontario did some work in their research station but the difficulty in co-ordinating work was mainly across the lakes where there are 8 different states each with jurisdiction over fisheries. The official knowledge of Dr. Sprules, our federal Department of Fisheries expert, is fairly recent on it.

Mr. MURPHY (*Lambton West*): As I understand it, the federal department came into the picture only a year ago?

Dr. SPRULES: In 1953.

Mr. MURPHY (*Lambton West*): That is when you made your first survey?

Dr. SPRULES: Yes.

Mr. MURPHY (*Lambton West*): Were you working then in conjunction with the Ontario government and the 8 states? Were you working with them or with the federal governments of the United States of America and Canada on the project?

Dr. SPRULES: On the Canadian side we were working with the province of Ontario and the American program had been co-ordinated under the federal United States Fish and Wild Life Service with the states contributing in a minor way; but everyone was in the picture in our work here. We were only able to work on our own side although individually we did step across the border and discuss matters with the American scientists. There could not be a co-operative program as there was no formal authority for co-operative work internationally.

Mr. MURPHY (*Lambton West*): Is there anyone here who could say what has been done by the Ontario government?

Dr. SPRULES: Yes, sir.

Mr. MURPHY (*Lambton West*): I do not necessarily mean by the Ontario government, but by the local government on the Great Lakes.

Dr. SPRULES: In 1946 the United States of America agencies became very concerned specifically as a result of the decline in Lake Michigan. That was their big fishery and it was all theirs. There is no Canadian fishery on that lake. The U.S.A. Fish and Wild Life Service in the United States were called in to assess the problem in Lake Michigan. At that time they established the Great Lakes Sea Lamprey Committee and they called upon the province of Ontario to sit as a member of that committee in an informal way only to discuss the matter on a scientific level. As a result of the meetings in 1946 it was fully realized that no control program on the American side could be effective *per se*; there must also be control on the Canadian side. Ontario at that time agreed to survey their streams running into Lake Huron. Lamprey still had not become a problem in Lake Superior. The Lake Huron survey was a matter of assessment of the number of streams in which there were sea lamprey spawning runs. On approximately 20 of those streams they built mechanical wire traps across the stream into which the lamprey ran and were removed. They have been carrying on with that sort of weir control on a few streams flowing into Lake Huron since about 1946—I think we had better make that date approximate.

The CHAIRMAN: Mr. Murphy, would you mind passing up all those figures for the record, please?

Mr. MURPHY (*Lambton West*): I would like to use them for a while.

The CHAIRMAN: I see.

Mr. MURPHY (*Lambton West*): Before you finish, Dr. Sprules, would you put on the record the amount of the catch of trout in Lake Huron for three periods—have you got 1954 figures, or even 1953 figures? Then you could go back five years before that, and five years before that again? Or you could take Lake Huron plus Georgian Bay, if you like?

Dr. SPRULES: Would you like the total of Lake Huron and Georgian Bay separately?

Mr. MURPHY (*Lambton West*): I think it would be as well to have them separate.

Dr. SPRULES: There are three statistical units—the area behind Manitoulin Island is also considered a separate entity. I believe the figure shows itself quite clearly if we take Lake Huron as one place.

Mr. MURPHY (*Lambton West*): That will be all right.

Dr. SPRULES: In 1953, production was 344,000 pounds. In 1949, production was 399,000 pounds. In 1944, production was 1,140,000, and in 1939 it was 3,203,000 pounds.

Mr. MURPHY (*Lambton West*): Would you like to go back another five years? Those figures are very impressive. 1939 was the last year you gave.

Dr. SPRULES: In 1934 it was 3,520,000 pounds.

Mr. MURPHY (*Lambton West*): Can you tell us, Dr. Sprules, how many of these contraptions were used by the various local governments in an effort to combat the menace of lampreys up to the time you stepped into the picture?

Dr. SPRULES: I think I made the statement that the province of Ontario operated approximately 20 devices. They were not on the same streams year after year and, incidentally, I do not think that those devices were operated as a control measure. They were operated as an assessment measure to obtain information as to whether there were lampreys running into the streams,

and if so, how many and when. It was a preliminary investigation to find out how these parasites live and what their habits were in this particular lake.

The United States agencies had gathered a lot of information about the creatures on their side, but there we have an entirely different geological picture—sandy shores as against rocky shores on the Canadian side, warm water streams flowing in from a southern drainage system, as opposed to cold water streams flowing in from the north on the other side—and it was necessary to find out what the lamprey were doing and when in our own Ontario drainage system. I do not think the authorities were attempting to control the lampreys at that time, although the devices of which I have spoken would have had the effect of partial control.

Mr. MURPHY (*Lambton West*): From your own experience and from your own observation or knowledge, how many of the streams entering Lake Huron have to be taken care of by way of these weirs, or similar devices in order fully to control the spreading of lampreys or expedite their elimination?

Dr. SPRULES: Our estimate at the present time—and it is a very wild estimate because, as was pointed out earlier, we are working at present on Lake Superior in particular, and we are not assessing the streams in Lake Huron—is that there are approximately 50 streams flowing into Lake Huron which will require attention, and that is a very small percentage of Lake Huron's streams.

Mr. MURPHY (*Lambton West*): I do not understand that. Is there any particular part of the lake which these streams flow into which is considered a vital area?

Dr. SPRULES: The major spawning streams with regard to Lake Huron are in the north channel, on the north shore and behind Manitoulin Island up to Sault Ste. Marie.

Mr. MURPHY (*Lambton West*): That is where these experiments by the department were taking place?

Dr. SPRULES: That is correct. In Lake Superior, if I may refer to that again for a moment, because it is the area where we have more information, we have surveyed every stream flowing into the lake from the Canadian shore and the total is something like 593 streams. Of these 593 streams located in our assessment we feel that at the most 120 will require attention. The other streams have been classified by us as impossible for lampreys to ascend because of natural barriers—falls and so on, or maybe logging dams and other factors. There are other elements such as the lack of suitable spawning areas in a stream—there may be a stream which is entirely unsuitable for lampreys to propagate. But approximately 120 of the 593 streams we surveyed seem to have a high possibility.

Mr. MURPHY (*Lambton West*): I hope you do not mean that you have written Lake Huron off as a source of supply for lake trout, or is it going to be a matter of time before the fishery is restored? I thought I understood you or someone else to say that a lamprey lives for seven years and that trout is its main source of food.

Dr. SPRULES: We are not prepared yet scientifically to say that trout is the main source of food, but it is certainly a desired or preferred source and the trout seem unable to survive the attack. One of the species in the Great Lakes which is very hard-hit by lamprey is the common sucker. Whenever we take suckers in the commercial nets or in our traps there are generally lamprey scars on these fish, but we do not know what is happening to the sucker population because it is not widely fished commercially. We certainly think from experiments that the sucker is much more able to look after itself after an attack than the lake trout. We must keep in mind that the lake trout is very vulnerable to attack.

Mr. MURPHY (*Lambton West*): I think it would be very useful, Dr. Sprules, if you would explain to the committee about the life of the lamprey while in the lake as an adult—is that a one year period?

Hon. Mr. SINCLAIR: Perhaps we should pass some lampreys around. Dr. Sprules has brought some specimens here.

Dr. SPRULES: Yes. We can pass these around. In this small vial are five or six young lampreys. There is one which is an inch long. It is a very young lamprey taken shortly after its emergence from the nest. The egg, as I said, develops into a larva; that larva is unable to swim by itself, and it drifts downstream with the current until it reaches the estuary, where it falls to the bottom, burrows into the mud flats and grows there. It is very small and almost transparent. The mouth protrudes from the surface of the burrow and is turned upstream so that it may catch micro-organisms in the water as they flow down. The creature stays in the mud for four or five years and during that time it grows from about one inch in length, or a little below, to five or six inches long. That takes five years. Then it changes. Metamorphosis occurs like the caterpillar and the moth. It changes into something which really looks like a lamprey. It leaves the burrow and swims actively out into the lake where it attaches itself very quickly to a fish, and after it has been there for just over a year—it reaches the size of the large specimen in the second vial. I think for all intents and purposes we can say the largest specimen in the small vial is approximately five years old; and this animal is just over six years old. Therefore, that is the pattern of growth—it takes five years to reach five inches in length, feeding by itself; and then feeding at the expense of our great lakes fishes, it increases to 18 inches in length in just over a year. At that time it is mature and ready to go back to the stream to spawn and die.

Mr. BRYCE: When it gets hold of the trout, does it continue to hold on without letting go, or does it attack different fish and feed for varying periods of time?

Dr. SPRULES: It does all of the things you mentioned, sir. It will attach itself to one animal, and may stay in that position on the animal until the animal dies, at which time it must of necessity move off and seek another host. Sometimes the lamprey will attach to a fish and for some unknown reason will leave that fish and go off to find another. There seems to be no particular reason for this. As the film illustrated occasionally several lampreys will attack one individual fish.

Mr. STUART (*Charlotte*): In the case of the eel I mentioned on the east coast they have a very bad habit of attacking salmon when they are just about ready to deposit their spawn. They will suck on to the fish and take every bit of spawn out and eat it. Do they have that same problem with the lamprey in the Great Lakes?

Dr. SPRULES: What animal are you speaking of now?

Mr. STUART (*Charlotte*): The eel which we have on the Atlantic coastline. I do not mean to say that it attacks every salmon but they particularly attack the female salmon at the time they are ready to deposit their eggs. I have seen in the traps and the places where the fish go over the dams that the salmon will thresh every which way to try and shake the eel off, but it simply will not shake off until it has devoured every bit of spawn. I wondered if it would be the same thing.

Dr. PRITCHARD: I think we are still a little confused. I believe what you are talking about is a sea lamprey—the true eel does attack and take salmon eggs.

Mr. STUART (*Charlotte*): Do they do the same thing with the trout in the Great Lakes?

Dr. PRITCHARD: I do not think they actually follow them and suck the eggs out. I would be interested in seeing that happen. If they bore right through

the trout as they do quite often, then water gets into the body cavity. Most of you know enough about hatcheries to know that if you let water get into the body cavity the water makes the eggs hard. You cannot fertilize them because the outside of the egg gets hard and they are no good. The fish, of course, will eventually die if you let water get into the body cavities. I can see the point. They do it in a different way, but it has the same effect.

Mr. STUART (*Charlotte*): The reason I asked the question was that I wondered if they had the two destructive ideas of killing the fish and the spawn—because the eels on the east coast do that.

Dr. PRITCHARD: No, actually all they are doing is feeding on the fish. They have no ideas about killing or anything of that nature. They simply have to get food.

Mr. MURPHY (*Lambton West*): I would like to continue for two or three minutes, Doctor. I understand that your activities will be concentrated in Lake Superior and that you will endeavour to keep that situation under control. Is that not one of your first objectives?

Dr. SPRULES: Yes sir. At the present time we feel that is the best place to put our efforts. We must determine through experimentation the best method of controlling this animal and we are using Lake Superior for a testing ground. In this area we are using electrical and mechanical barriers and selective poisons. We may find something else. A new idea we have is ultrasonics. We are testing everything in Lake Superior. Once we have determined the best and most economical method of control then we will be able to move on into other areas and other lakes.

Mr. MURPHY (*Lambton West*): You said a little while ago that there are 50 odd streams of which you know where the lamprey go to spawn in the north channel and Lake Huron area. Perhaps I should not ask this question but why is not an effort being made in this area in conjunction with the Lake Superior effort, since it will require a period of years to destroy this pest? Why do you not start on that project?

The CHAIRMAN: I do not like to interrupt, but I think that is a matter of government policy. Perhaps the minister will speak on it.

Hon. Mr. SINCLAIR: We have been working in this field for only the last two years. This year we have an appropriation of \$330,000 in our estimates whereas there was nothing two years ago on this matter of lamprey control. Our scientists feel that the money should be concentrated first of all in an area where they can at least check the progress of the lamprey. If we concentrate on the Lake Superior area we can hold the line and then move back into Lake Huron, because there it is not a matter of holding the fisheries, it is a matter of exterminating the lamprey and rebuilding the fisheries. We feel that is the best way to spend our money. If the fishing industry of the Great Lakes would speak strongly for a bigger program, I would not be averse to it.

Mr. MURPHY (*Lambton West*): I am speaking strongly now. One reason I had the figures put on the record was that they indicate that this is a serious problem. They indicate that today the catch is less than one-tenth of what it was in 1934. It amounts to a loss of millions of dollars a year, and over a period of ten years it is just ten times that amount. In fact, it is more than that because in Lake Huron we are not getting anything now. I am glad you entered into the discussion and my suggestion is that in view of the fact it has been disclosed that there are only some 50-odd streams where the lamprey go to spawn in Lake Huron—and apparently that includes Georgian Bay and the channel area—that an effort should be made in conjunction with the other effort and that the trout fry—I think that is the term for small trout—be deposited at the lower part of Lake Huron so that the trout industry there could be re-established.

Hon. Mr. SINCLAIR: We want to be very certain, of course, when we ask parliament for more money that such sums will be spent successfully. There is one point.

Mr. MURPHY (*Lambton West*): Before you go into that I think it has been established that the cost of these barriers is a moderate amount, is it not?

Dr. SPRULES: The cost per installation for an electrical barrier varies, of course, dependent on the width of the stream, the conductivity of the water and so on. There are many factors to be considered. One thing that is increasing our costs in Lake Superior is inaccessibility. The road comes up to the Montreal River from Sault Ste. Marie and to Marathon from Fort William, but then we have the great expanse in between with no access roads. The cost per installation is going to run very close to \$10,000 per unit on the average there. As we get into more accessible areas the cost should come down to an average installation cost of perhaps \$5,000 to \$6,000.

Although the film indicated that an electrical barrier would only require 5 or 6 cents worth of electricity per hour, the fact remains that there have to be men there to make sure that the power does not fail, because one day of power failure, or one hour of power failure could be drastic. The cost of maintenance in inaccessible areas is very high.

Mr. MURPHY (*Lambton West*): I am glad you put those figures on the record because if there are only 50-odd streams running into Lake Huron, I can see no objection by anyone to this procedure or enterprise. Did I understand the figures correctly to show that in 1934 there were some 30 million-odd pounds taken?

Dr. SPRULES: No, three million pounds, sir.

Mr. MURPHY (*Lambton West*): Let us put it on a dollars and cents basis. Suppose trout averages 50 cents a pound?

Dr. SPRULES: That is a reasonable estimate.

Mr. MURPHY (*Lambton West*): Take the poundage which you got in 1934, and suppose we take it at a figure of 50 cents a pound?

Dr. SPRULES: Let us say that at today's prices it would be something over \$1 million.

Mr. MURPHY (*Lambton West*): All right; and last year's catch would amount to how much at the same price?

Dr. SPRULES: It was approximately 3 hundred thousand pounds.

Mr. MURPHY (*Lambton West*): That would be \$150,000; so there is really a difference of one million odd per year in the catch of trout alone in Lake Huron; and if the problem is not solved, that would be the annual loss to the fishermen of this country.

Dr. SPRULES: It only applies to that species, because the total fish production in the lake is still pretty favourable.

Hon. Mr. SINCLAIR: That is one point which should have been raised earlier. We have been discussing the damage to lake trout. But the annual figures for the fisheries on the Great Lakes, as far as the total of production is concerned, have been pretty uniform, but the fishing intensity has moved from lake trout to less valuable species. It may be that in making up their catch the fishermen are overfishing these other species. That is why we think it is just as important if not more important, to go ahead with the second phase of this treaty, namely, fisheries research.

We are proud of the job we have done on the two coasts to get proper management or balance in our fishing. In the Great Lakes the pattern of the fisheries catch has changed from what it was fifteen to twenty years ago. The sea lamprey has had its part in it, as well as the demand in the Canadian

market for the better fish such as trout and whitefish. This has provided an incentive for the fishermen to go after these species very intensely. That is why we feel that the program of research which we will join in under this joint commission is just as important as the actual mechanical control of the sea lamprey.

Dr. Sprules and Dr. Pritchard, I think, should say a little about that. From our own experience on the east and west coasts in commercial fishing, practical fisheries management under scientific control is the most important factor; and I think it is reflected in the quite extraordinary record we have in increasing the catch on both of our coasts at a time when many countries have experienced decreasing catches.

Mr. APPLEWHAITE: Is the lamprey doing the same thing as the fishermen, that is, as the lake trout disappears, is it going to transfer its activities to other species?

Hon. Mr. SINCLAIR: Perhaps Dr. Sprules could answer your question.

Dr. SPRULES: Yes. There have been some very interesting changes take place in the Great Lakes populations following the buildup of the lamprey population.

After lake trout have declined to nil, so to speak, the next fish which seems to fall off very rapidly in production is whitefish which is our second most valuable inland species. As the result of the loss of lake trout, other species which were normally the food of lake trout come up in terrific quantities. At the present time in Lake Michigan there is a little white fish known as the chub, which has increased to such numbers in Lake Michigan that commercial fishermen there are hardly able to clear their nets; yet that species has not the same value on the market, certainly not when it is in that quantity.

Mr. APPLEWHAITE: Where is the lamprey going when it cannot find trout?

Dr. SPRULES: On to whitefish or other species. It has even been found on sturgeon and yellow pikeperch. In fact I think that lamprey scars have been recorded on almost every large species in the Great Lakes. It will sustain itself on some of the less important commercial species.

Mr. BARNETT: The question I have in mind may have been already partially answered: whether there is a point of no return to be reached in such a lake as Huron, as far as food supplies for the lamprey are concerned, and whether there is any immediate prospect of a decline in the population of lampreys because of the lack of food?

Dr. SPRULES: We could only speculate. There is no indication that the lamprey run is decreasing in Lake Huron. As a matter of fact, in Georgian Bay where a small lake trout production has maintained itself there has been an increasing number of scars found on the fish taken in the commercial catch. We think the sea lamprey populations are increasing there.

Mr. BARNETT: They are still maintaining themselves in quantity?

Dr. SPRULES: Yes.

Mr. BARNETT: It would appear to me that it was attributable to the program you have been outlining in regard to tackling Lake Superior first and I was wondering whether in the interval while you are dealing with Lake Superior, because of the decline in food supply in the Great Lakes, the problem might be correcting itself in the meantime. That was the thought in my mind and I wondered if it was so.

Dr. SPRULES: No, I do not think that it is so.

Mr. CAMERON (Nanaimo): Do lampreys follow somewhat the same life cycle as salmon in going back to the same stream where they were spawned? Do they tend to attach themselves to a certain stream such as salmon do?

Dr. SPRULES: We are not absolutely sure of that. We have tagged a lot of lampreys, but we do not know if they "home" to their original stream.

Mr. APPLEWHAITE: If they are continually moving up from one lake to another, that would indicate that they are looking for new spawning grounds.

Dr. SPRULES: That is true but once established in a stream a large percentage may return to the same stream to spawn. We do not know.

Mr. MURPHY (*Lambton West*): When this convention is adopted by both the Canadian and the American federal governments, what would be the position of the provinces and the states with respect to jurisdiction over fisheries?

Hon. Mr. SINCLAIR: We have no problem at all in this country, because the British North America Act does give sole control over fisheries to the federal government.

Some years ago we made eight of the ten provinces which asked for it, our agents, as far as sport fishing is concerned, and the prairie provinces and Ontario so far as commercial fishing is concerned. The provinces concerned submit the regulations they want to our department. Our scientists pass on these regulations, and they are then made legal by order-in-council. The provinces then administer these regulations as our agents.

It is my feeling that it would be best if all commercial fisheries were under the federal department. Our major fisheries are, of course, the great coastal fisheries, representing over 90 per cent of our total catch. We have the research staff, protective service, engineering staff and fish culture staff, which have done a good job in these great commercial fisheries, and which could easily do the same job in the fresh water commercial fisheries. However that will be a decision for the provinces to make. On the other hand there is no question whatever in my mind that our present arrangement of having the control of sport fishing handled by the provinces is an excellent one, because the provinces are closer to the problem and they can tie in sport fishing with their game laws and tourist attractions, and it works out very well.

When we are criticized for not having taken action on the Great Lakes before this, it must be remembered that this is a matter of provincial jurisdiction, and up until 1953 we were not in the picture at all.

I must say that the province of Ontario has been most co-operative in this program. We have never had trouble over jurisdiction such as they had in the states across the boundary, where states were reluctant to release the necessary authority to their federal government to enter into such a treaty. If it had not been for that, this treaty would have been effected in 1946.

Once congress and parliament have passed the treaty there will be two national governments which will actually control, directly, the program of scientific research and lamprey control. In each of our countries we will keep in close co-operation with the local authorities of the province and the states. In our case it is the province of Ontario, but in the United States it will be the eight states which fringe on the Great Lakes.

Mr. MURPHY (*Lambton West*): Would the commercial fishermen still get their licenses from the states?

Hon. Mr. SINCLAIR: Yes, and the commercial fishermen will continue to get their licenses from the provincial department.

Mr. MURPHY (*Lambton West*): I think I mentioned the other day about sand barges taking out sand at the end of Lake Huron. I suppose according to the British North America Act that would come under property and civil rights, and it would be under provincial jurisdiction.

Hon. Mr. SINCLAIR: Our Fisheries Act does give us pretty broad powers under which we can preserve our fisheries against encroachments such as that.

But because the province now administers control over these commercial fisheries, it is up to them to take the first step. We have authority, however, if there is damage to the fisheries by industrial pollution, or dams, and so on, to require remedial measures.

Mr. MURPHY (*Lambton West*): I would like to hear something about research; but before we go to that, I suppose that after this convention is passed, you will have evidence from fishermen on both sides of the Great Lakes who are interested. The reason I say that is this: this sand removal business would run into millions of tons of sand and gravel a year, and to the fishermen it is important, they maintain—this enormous sand removal interferes with the spawning of the fish in that area. Maybe there is no importance to it, but if there is, and with the current running into St. Clair River, maybe a mile away from where the sand barges take all this gravel and sand, where the fish have spawned near the shore, it would mean that their spawning beds are destroyed before they get a chance to hatch. I think that is vitally important and something which should be inquired into.

Hon. Mr. SINCLAIR: That is a proper field for research for this commission. We shall set up a commission, once the treaty is approved, similar to the other fishery commissions, with Canadian and American commissioners, and there will be an advisory committee composed of operators and fishermen. But as far as primary research is concerned, that will be entirely under the direction of the members of the commission. It may be of interest to have Dr. Sprules and Dr. Pritchard tell us a little about the type of research which we are hoping to do under this commission.

The CHAIRMAN: Before we go on, I might say, Mr. Minister, at our last meeting Mr. Barnett, I believe, suggested that the chairman of the Fisheries Research Board might be asked to attend, but I understand he is in Europe at the moment. I understand that Mr. Otto Young, who is the assistant chairman of the board, might have been available, but he is out of the city at the moment. Dr. Pritchard and Dr. Sprules, I think, will be able to tell you.

Mr. BARNETT: I did not specifically request the chairman of the Fisheries Research Board. I suggested it might be one of those people. I said whoever the department considered to be suitable. But, Mr. Chairman, I have one or two other questions which are somewhat related to the subject matter which we are pursuing.

The CHAIRMAN: I was wondering, before we went on, whether Mr. Murphy had finished, because there are some statistics we want from him for the record if he is finished. Mr. Murphy, have you finished?

Mr. MURPHY (*Lambton West*): Yes.

The CHAIRMAN: Now, Mr. Barnett.

Mr. BARNETT: One of the questions that arises in my mind probably as a result of the film we saw has regard to the species of fish in the Great Lakes which are stream-spawning fish. I noticed there was reference made in the picture to a device for allowing other spawning fish to enter the stream past the barrier; and I was wondering what species were involved, and how important a factor in trapping the lamprey is the provisions of facilities for other species to go on up the stream to spawn.

Dr. SPRULES: At the present time we are including by-pass traps for other species at all our installations. Some species which are important in Lake Superior are running at the same time as the lamprey—I think that something which must be kept in mind is that the lamprey run is in early spring as soon as the ice goes out, continues on during May and June and is practically over by the end of June or early in July. After July we take the electrodes

off and remove them from the stream; there is no barrier of any description at that time. Up to the beginning of July these by-pass traps collect a high percentage of certain desirable fish trying to get up the stream. The fish of most concern in Lake Superior is the rainbow trout which was introduced to these waters and is sought after by sport fishermen. A small percentage of most species in the stream are affected by the electric barrier, but most get into the traps and we take them out and move them upstream to allow them to go on to their spawning areas.

Mr. BARNETT: What are the other species?

Dr. SPRULES: The main mass of fish going in at the same time as the lamprey is the common sucker.

Mr. BARNETT: About which you are not too concerned?

Dr. SPRULES: There is not too much concern about it. There is no other desirable fish, other than the rainbow trout, being taken in quantity in streams at the same time as the lamprey run.

Mr. BARNETT: I was wondering whether there was any other known instance of the invasion of the sea lamprey into an inland commercial fishing area?

Dr. SPRULES: No precedent that we know of; but a long time ago the lamprey came up into Lake Ontario—many, many years ago—and has run up the tributaries of New York State into many small inland lakes, but there is no commercial fishery there; they are small sport fishing lakes only. I do not know of any country on the other side of the Atlantic Ocean where they may have happened.

Mr. BARNETT: Is it a species widespread throughout the oceans of the world?

Dr. SPRULES: This is a species very common in the Atlantic Ocean that runs into streams on both sides of the ocean to spawn.

Mr. BARNETT: Is it found in the Pacific?

Dr. SPRULES: It is a different species in the Pacific. There are lampreys but not the same species.

Mr. BARNETT: I was wondering whether at any time we might be faced with a similar problem on our British Columbia coast, and whether, for example, there is any possibility of this species or a similar species invading our rivers and lakes where our sockeye salmon are.

Hon. Mr. SINCLAIR: That had concerned me as a layman. The lamprey in the Great Lakes found a habitat almost like the sea except that it was not salty, and it adjusted itself to this new environment where it has no natural enemies, as it has in the sea. The same thing is true on the west coast. In your riding, Mr. Applewhaite, there are lampreys. When they return to the sea there are predators, such as cod and dogfish, which attack it, but there is nothing in the Great Lakes which will touch a lamprey. Am I correct?

Dr. SPRULES: You are quite right up to the present day. When a species is introduced into a new environment—you have seen examples of it, the starling here and the rabbit in Australia—they spread very rapidly. One reason for the spread is there are no natural predators since they are not recognized as a food item. At the present time we have found lampreys in raccoons. Raccoons evidently go down to the streams and take lampreys. The great blue heron has taken lamprey, and now the gull on the Great Lakes is starting to feed on lamprey. This is a hope for there are a lot of seagulls.

Mr. BARNETT: As you can see, the point of that question would be whether the research work contemplated here would eventually be of benefit to us in connection with our seacoast fisheries.

The CHAIRMAN: Mr. Barnett, if you have finished, Mr. Bryce has a question.

Mr. BRYCE: You mentioned something about ultrasonics. Could you tell us more about that? I know what a whitefish, a pickerel and a goldeye are, but that is the extent of my knowledge.

Dr. SPRULES: At the present time there are devices which may be manufactured to make sounds which are outside the limit of our hearing. They are too high pitched for our hearing to receive the sound. Sometimes those sounds have a very great effect on animals and may even kill them we think. At the present time the Fisheries Research Board is considering the development of a device which will produce a supersonic sound, a sound above our hearing, and if we can place that on a river bank and have it shooting out in the water it may be that we can either delay the lamprey sufficiently long that death overtakes it or actually kill it if the frequency of that sound is right. This will be extremely valuable in the access waters to the lakes. We will not have completed the business when all the lamprey are dead in Lake Superior because they can still come in through the Sault Ste. Marie locks. It may be that supersonics will be the answer. It is a high frequency sound which we think we can produce under water, which may kill.

Mr. BRYCE: And you could arrange that so that it would not kill the other fish you wish to keep?

Dr. SPRULES: The man who has thought up this device says yes, but he has not built or tested a device; it is on paper, and we would want to test it. I think the effect would be different on different species of fish and it may be possible to set it to kill only lampreys or fish of similar structure.

Mr. MURPHY (*Lambton West*): How much of the amount set up in the estimates would be for research and how much for construction and operation and maintenance of these devices?

Hon. Mr. SINCLAIR: For 1955-56 in our estimates we have a separate research program: for administrative purposes \$25,000 with a similar amount being provided by the province of Ontario making a total of \$50,000. Under the current arrangement with the province the general fisheries research will involve about \$200,000 contributed by the provincial government and our amount for lamprey control is \$330,000.

Mr. MURPHY (*Lambton West*): How much by the 8 states in the United States with the federal government contributing?

Hon. Mr. SINCLAIR: We do not know that. What we are doing now in research is shared with the province of Ontario. The two of us are going ahead with the program with the anticipation of the approval of this commission. When the commission is set up they will put before the two national governments the program they think necessary to successfully combat the lamprey and go ahead with research. It will be done in the same way as with the other commissions, the Salmon and Halibut Commissions, where each year they budget for a certain amount which is split between us equally. There will be some negotiation of division of costs as the Americans are obviously going to get more benefit out of it since Lake Michigan is entirely American.

Mr. MURPHY (*Lambton West*): This must be a clipping from a Washington paper, but I notice it quotes Warren F. Looney, a state official who says:

"It was estimated that it would take 6 to 8 years to bring the lamprey under control."

Hon. Mr. SINCLAIR: That is just one life cycle.

Mr. MURPHY (*Lambton West*): "Senator Charles Potter urged ratification of the treaty and said Canada is spending as much on lamprey control as the

8 United States states fighting it in the Great Lakes." That is the reason I asked that question. I thought that the United States would be spending more than Canada.

Hon. Mr. SINCLAIR: Perhaps we have more concern about the problem than they have.

Mr. APPLEWHAITE: What proportion of lamprey eggs sprawn and actually become adult lampreys?

Dr. SPRULES: I cannot answer that, sir. The average female produces 60,000 eggs and may run as high as 100,000. We have not found any figure on the percentage of survival of that average 60,000 egg mass which would develop into larvæ and thence adults. It must be a very small percentage which actually becomes adults of course. There are as many as 20,000 adult lampreys taken out of one of these streams each year. In one stream if the females in the 20,000 produced 60,000 eggs each there would be more lamprey than water in the Great Lakes. The loss must be very heavy, perhaps down to 10 or 20 per cent at hatching.

The CHAIRMAN: I think it was suggested that we might have a short statement on research by Dr. Pritchard.

Dr. PRITCHARD: Mr. Chairman, may I for the benefit of Mr. Murphy make the statement that Dr. Sprules is in a somewhat unique position. He is with the Department of Fisheries but before he came to the department he did a lot of work on the Great Lakes in this co-operative research program with the Ontario government. He was an employee of the Fisheries Research Board, and when we took over this co-operative program he, in co-operation with Dr. F. E. J. Fry, took charge of the research, even though he is with the federal department. That is the reason why he knows so much about the research which was carried on, and I would like him to make the statement.

The CHAIRMAN: That would be perfectly satisfactory.

Dr. SPRULES: I might approach this subject from two viewpoints. The first is the reason for undertaking fundamental research on the Great Lakes. I believe that will be obvious to everyone. The Great Lakes system is the largest fresh water system in the world, I believe. The commercial fishery is certainly the largest fresh water fishery in the world and in addition to that we have one of the greatest complexities of species which is found anywhere. There are about 120 different species of fish in the Great Lakes. If we take a lake in northern Canada, such as Great Slave Lake, we would find that there might be ten species of fish there. When you are thinking of managing a lake and having it produce properly and it contains 120 separate species of fish all of which are competing for food, space and spawning area, the problem becomes much greater. An intensive research program is then required to determine fundamental knowledge of the habits—all the habits—of every species of fish.

In the past the research work has been sporadic—a touch here and a touch there. The cisco population in Lake Erie declines—and after it declines scientists are asked to explain why. Lamprey come into the Great Lakes and the lake trout population declines; scientists are asked why. We think that if we started a good fundamental research program on all of the lakes at this time, and if we built up a volume of knowledge about the habits and life cycle of each species we would be able to go a long way in being able to prevent these crises. Certainly we would be able to forecast a crisis instead of having to find an explanation after it had happened.

Secondly the present program of research is an extensive one. There are many problems which are common to all the lakes, and then there are problems which are specific for each lake. The sort of problems which are found in every lake concern a general knowledge of water currents, the distribution of food in

the water, inquiry into bottom types so that we may know where fish spawn, tagging programs to ascertain where the fish go, and that sort of thing. Then we come to specific problems such as the whitefish population in Lake Ontario and the multitude of species in Lake Erie, all contributing to the commercial catch. One of the major problems in our Great Lake system now is that we do not know how to use about 110 of the species of fish which are produced in the lakes. We have a market for about ten species—lake trout, whitefish, smelt, pike, pike-perch and so on. But as I say there are about 110 other species which are using food and taking up space which perhaps should be available for the more desirable species. We cannot begin to manage the lakes and suggest measures to have the lakes produce their maximum yield on a consistent annual basis unless we accumulate a great background of information concerning the habits of every species. I think there is perhaps nothing more which need be said.

The CHAIRMAN: Thank you very much.

Hon. Mr. SINCLAIR: It might be interesting just to put on the record the names of the commercial species which are included in our catch figures here: blue pike-perch, carp, catfish, tullibee, eels, lake herring, lake trout, pike, yellow perch, sturgeon, whitefish, yellow pike-perch, bullheads, ling, menominee, suckers or mullets, rock bass, saugers, sheepshead, smelt, sunfish, white bass, dogfish. All these species are included under commercial fisheries.

Mr. MURPHY (*Lambton West*): From what you have said, Dr. Sprules, and from the report I have here, I gather that the loss to Canadian and United States fishermen in Lake Huron and Lake Michigan amounts to \$5 million a year—would that be about right?

Dr. SPRULES: That figure relates to lake trout produced only from Lake Huron and Lake Michigan. That represents the loss in income from the lake trout decline.

Mr. MURPHY (*Lambton West*): That is what I mean.

Dr. SPRULES: The overall value of the fisheries is larger currently.

Mr. MURPHY (*Lambton West*): No. I had in mind just the value of the lake trout.

Dr. SPRULES: 11,000,000 pounds and roughly \$5 million.

Mr. MURPHY (*Lambton West*): How much is being allocated for research?

Hon. Mr. SINCLAIR: In this present period we have moved into the field with a total of \$50,000 this year. Your figure, Mr. Murphy, is a little deceptive in one way. As Dr. Sprules has pointed out the removal of the lake trout has brought about a greater production of lesser fish, with the result that the total value of the fisheries has not changed very much in recent years.

Mr. MURPHY (*Lambton West*): I appreciate that. However, it may be that the fishermen have needed to fish more intensively in order to make a living, and that might have to be taken into consideration.

Hon. Mr. SINCLAIR: We spent \$2 million on research on the coastal commercial fisheries for which we have direct responsibility. Even today we have not got direct responsibility in the Great Lakes, but we are moving in because there is a need. If we had direct control we would use all the facilities of our department.

Mr. MURPHY (*Lambton West*): I think it should go on record, and I am speaking as a member of this committee, that compared with the loss of lake trout on Lake Huron and Lake Michigan amounting to \$5 million a year the amount allocated to research is picayune. As a member of this committee I am saying this in the hope that the matter can be considered in the serious light that it deserves.

There is just one more point and I am through. When you construct these weirs or control devices in these streams do they have to be installed over a period of several years? You would get the lampreys coming up, say, this year, to spawn. But there would be other ones that had already done the damage.

Dr. SPRULES: That is right. The barrier constructed on the stream is intended only to stop the adult lampreys from reaching an area where they can spawn. They must spawn in gravel. We put our barriers downstream from the first gravel bed. If we could stop all these adults from spawning—supposing, for example, that we had stopped them in 1954—and that it takes them seven years to grow up, then in 1961, if we had stopped every adult in every stream, there would have been no young produced and thus no adults. We must carry on the process for six or seven years. But now, though we may put an installation in to stop the adult lampreys going upstream and spawning we still have six year classes of young lamprey “sitting” in the mud and silt at the mouth of the river to deal with.

Mr. MURPHY (*Lambton West*): You mean in the lake?

Dr. SPRULES: No. At the mouth of the river in the mud. The lamprey, as I explained, spawn in the gravel, and the larvæ afterwards float down into the estuary. They come out of the nests and drift with the current and are deposited in the slack water above the silt at the mouth of the stream.

Mr. MURPHY (*Lambton West*): They are below these devices?

Dr. SPRULES: Yes. In any case the device is not in position when they are going down. They grow up in the mud for five or six years, and then they move out into the lake. One phase of our program is to attack these five year classes which are in the silt and mud. In the course of the showing of the film, members of the committee will have noticed the selective poison experiments, and I may say that we have used a poison which is heavy. The poison is mixed with carbon tetrachloride which causes it to sink to the bottom of the water and kill the lampreys in their little burrows. We need the electric barriers to stop the adult lampreys in the lake from reaching spawning areas. Then to hurry the program if we can we hope to control these several year classes in the estuaries. This would make our work much more effective and rapid. However, the devices will have to be operated for six or seven years at a minimum.

Mr. MURPHY (*Lambton West*): In your recent program in the Great Lakes area was it also the intention of those engaged in that work to study the various phases of the economics of fishing in the Great Lakes?

Hon. Mr. SINCLAIR: The economics of the fishing in the Great Lakes is more the work of the Department of Fisheries. The research board as such is primarily concerned with pure research. We have stations on the two coasts and a central station at Winnipeg. We have no station on the Great Lakes. The provincial government maintains a station on Manitoulin Island. The economics of the fisheries are in the hands of those who administer the fisheries—the provincial governments in inland waters and the federal government on the coasts. We have a markets and economics branch which does surveys in relation to fishermen's income and so on but we are not in a position to do that on the Great Lakes, since we have no officers working in the area.

Mr. MURPHY (*Lambton West*): Suppose the fishermen in one area had a complaint to make, say, about dockage...

Hon. Mr. SINCLAIR: Even on the west coast if fishermen had to complain about wharfs or docks they would not complain to the Fisheries department but to the Department of Public Works. The Department of Fisheries has no control over the Department of Public Works.

Mr. MURPHY (*Lambton West*): I know that, but when you are carrying out this research with the idea of stimulating the fishing industry in the Great Lakes you would have regard to the various arguments which might be submitted by the fishing industry with respect to their problems?

Hon. Mr. SINCLAIR: Problems relating to the fisheries—not problems relating to the marketing or the transportation of the catch.

Mr. MURPHY (*Lambton West*): I did not mean marketing. But after all like every other big industry the fishing industry has its problems. Let us suppose that dockage, or high water levels—or low water levels—were creating difficulties. Would these things be of interest to the research board, and would they be taken into account?

Hon. Mr. SINCLAIR: The question of water levels, if it is going to affect spawning grounds is certainly very much a problem for the Research Board. But water levels as far as they might affect the docks are the concern of those who own the docks. We have always kept the department away from those particular matters which are the concern of other departments—wharfs, docks and so on which are a matter for Public Works. However, we do urge the building of harbours where there is a concentration of fishermen, but, as I say, it is a matter for another department. We are concerned here with pure research into the habits and population of fish in the Great Lakes.

Mr. MURPHY (*Lambton West*): Has any research been done on the effect on different types of spawn caused by high water levels on the Great Lakes?

Dr. SPRULES: Yes, there is a lot of information available on water levels and the percentage of survival.

Mr. MURPHY (*Lambton West*): Is the high water level disastrous to the production?

Dr. SPRULES: Not necessarily at all. It depends on the species and the period when the high water occurs. If the high water occurs at spawning time allowing fish to move further inshore and then the level decreases when the eggs are developing it is important, but the fluctuations on the Great Lakes are in general not that severe.

The CHAIRMAN: I might say, gentlemen, that I am very glad to see here this morning Mr. C. Gordon O'Brien who is the manager of the Fisheries Council of Canada. I understand he has no representation to make to the committee, but in this regard I would like to say that on Friday last I met Dr. A. O. Blackhurst who is the managing director of the Ontario Council of Commercial Fisheries, at Port Dover, Ontario. He expressed his regret that, because of a previous engagement he was not able to attend the meeting today. I understand that in Ontario there are approximately 1,780 commercial fishermen and I believe they stand behind this treaty 100 per cent. I am certainly glad to know that and I anticipated that the people would be in favour of the treaty. However, I mention this because Dr. Blackhurst is not able to attend the meeting this morning.

Are there any other questions on research before we begin a study of the bill itself?

Shall clause 1, "Short title", carry?

1. This Act may be cited as the *Great Lakes Fisheries Convention Act*.

Mr. PEARKES: Concerning clause 1, I wanted to say that we have engaged in an interesting and scientific discussion this morning, but, having been sitting on another committee which has spent a good many hours discussing provincial waters during this session, there are one or two questions I would like to ask on the bill itself. It seems to me that this is either a big constitutional change

or a change in constitutional administration, if I might put it that way. I understood that until 1953 the federal government had not taken any interest in the Great Lakes fisheries, is that correct?

Hon. Mr. SINCLAIR: The actual administration of the Great Lakes fisheries is in the hands of the province. As far as the constitutional point is concerned, the federal government has control over the fisheries in the lakes, streams and the sea, and there is no question about it. We have, however, worked out an arrangement over the years acceptable to both sides by which the provinces administer sport fishing as our agent, and also the inland commercial fisheries. We do general research on sea fisheries, and the Quebec Commercial fisheries too, because they are sea fisheries in the gulf of the St. Lawrence and are therefore like the maritime and Newfoundland fisheries. In the prairie provinces we have an experimental station at Winnipeg which specializes in fresh water fish. We of course have the inland fisheries in the Yukon and the Northwest Territories under our direct control. When Great Lakes conservation became an international matter it was obvious that the province of Ontario could not do anything about the decline in lake trout unless action was taken by the United States. The provincial authorities came to us and we agreed in 1946 to try and get an international treaty under which the federal governments would exercise sovereignty over the fisheries.

The commission will be exactly the same, as far as authority and action is concerned, as a commission which is familiar to you—the international Pacific Salmon Commission. The state of Washington actually exercises much more authority over the salmon fishing than does the fisheries department in the United States, but they give authority to the Salmon Commission and the commission controls its own research program and advises on the regulations which should be imposed on the fishermen to make their conservation policies effective.

Mr. PEARKES: Then I take it that the province of Ontario has surrendered the control it has had up until now over the commercial fishing?

Hon. Mr. SINCLAIR: No, it has surrendered nothing. All we are doing is work on research. With research, for example, we are setting up a commission which is going to study the fisheries of the Great Lakes, and over the years it will recommend certain regulations, fishing seasons and the type of gear, just as the International Salmon Commission does now. That is why I used the example of the Salmon Commission. The regulations of the Salmon Commission are enforced by the governments concerned. In any case, even now, any regulation on fisheries in the Great Lakes has to be passed by the federal government. The province asks us to pass the regulations it desires, because we have the legal authority.

Mr. PEARKES: In the past you have been publishing the regulations as to when the season shall start and if necessary the quantity of fish which might be caught?

Hon. Mr. SINCLAIR: Yes; for all ten provinces, but we do that at their request and it is a formality because they are our agents in this field. We do not tell them, "These are the regulations", but rather take the regulations they request and give them legal sanctions by order-in-council.

Mr. PEARKES: Now, in the future, is that policy going to be adhered to, or are you going to change that policy?

Hon. Mr. SINCLAIR: It is exactly the same.

Mr. PEARKES: The same policy?

Hon. Mr. SINCLAIR: Yes.

Mr. PEARKES: I ask that question because there are some punitive clauses in this bill, and I wondered if these punishments would be inflicted for the breaking of the regulations which have been passed by the Ontario department?

Hon. Mr. SINCLAIR: They do not pass any regulations; we pass the regulations.

Mr. PEARKES: The regulations are passed by you on the recommendation of the Ontario department?

Hon. Mr. SINCLAIR: Yes. The regulations will be passed on the recommendation of the international commission. They will suggest to us the regulations they should like to have adopted, but the actual administration comes under the jurisdiction of the game wardens of the Ontario Lands and Forests department who enforce the regulations just as they do now. We do not have a protective service on the Great Lakes.

Mr. PEARKES: You have no protective service?

Hon. Mr. SINCLAIR: No, not on the Great Lakes.

Mr. PEARKES: When it comes to a question of constructing these various dams and so forth, I take it they will be up the streams and not actually on the Great Lakes in many instances, although it may be otherwise. Who will do the actual work of the construction and who will provide the money to construct these appliances—the federal government or the provincial government?

Hon. Mr. SINCLAIR: To date it has been done by the federal government. We had an appropriation last year, and are putting up money in this year's estimates. Next year when I hope this commission will have been approved by parliament and by congress there will be in our estimates still another international commission to which money will be voted.

Mr. PEARKES: They will spend the money?

Hon. Mr. SINCLAIR: Yes, just as the Halibut Commission and the Salmon Commission spend their money. It will be voted by congress and by parliament and the commission as such will spend the money.

Mr. STICK: Will they have the right to build those works upstream?

Mr. PEARKES: Just to follow that up for a moment, will the federal government or the commission have to obtain permits from the province of Ontario to construct these works on the streams?

Hon. Mr. SINCLAIR: Yes, just as we had to acquire the property from the province before we could construct Hell's Gate in British Columbia.

Mr. PEARKES: So there will be no power to walk in and say, "We will construct a dam on this stream." A permit for that will have to be issued by the province of Ontario?

Hon. Mr. SINCLAIR: That is right. I might say that the province of Ontario has been extremely eager to see this work proceeded with, and not having the same resources of research that we have, because we have a big department, they have done everything possible to co-operate since 1946 when the problem first arose.

Mr. STICK: Concerning the streams flowing into the Great Lakes where you intend to build these works, they come under the jurisdiction of the provinces and not the federal parliament and you will have to get permission from the provincial authorities in order to build them?

Hon. Mr. SINCLAIR: Yes.

The CHAIRMAN: Shall clause 1 carry?

Carried.

Shall clause 2 carry?

Carried.

Shall clause 3 carry?

3. The Convention is hereby approved and confirmed.

Mr. PEARKES: Clause 3 is confined solely to the work in relation to the sea lamprey and general research work and those are the only two points which are made in the convention? Do I understand that is the sole sphere of the activity of the convention—the work on the lamprey?

Hon. Mr. SINCLAIR: The general management of the Great Lakes fisheries, as far as fisheries research is concerned, just one aspect of which is lamprey control.

Mr. PEARKES: Did you say the general management of research and general management of fisheries?

Hon. Mr. SINCLAIR: The general management of this fisheries is in the hands of the Lands and Forests branch of Ontario, just as in British Columbia the sports fishing is handled by the provincial game department.

Mr. MURPHY (*Lambton West*): You are not limiting to the convention just the destruction of the lamprey and if there is another evil which is curbing the fishing industry you would also tackle that problem?

Hon. Mr. SINCLAIR: Lamprey control is only one aspect of the whole research program, and it is the one catching the public's interest at the moment. However, as Dr. Sprules said there are many other problems in managing so complex a fishery.

The CHAIRMAN: Shall clause 3 carry?

Carried.

Shall clause 4 carry?

4. (1) Notwithstanding any other Act, the Governor in Council may make regulations for carrying out and giving effect to the provisions of the Convention and anything done by the Commission thereunder.

(2) Every person who violates a regulation is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year, or to both fine and imprisonment.

Mr. PEARKES: The commission would have the right to lay down the size of the mesh in the nets and anything like that?

Hon. Mr. SINCLAIR: They recommend.

Mr. PEARKES: They recommend it to you, and you would apply that?

Hon. Mr. SINCLAIR: Yes.

Mr. PEARKES: And anyone breaking that type of regulation would be liable to the penalties set out in clause 4?

Hon. Mr. SINCLAIR: Yes, but the enforcement would be in the hands of the officers of the Department of Lands and Forests of the province of Ontario; the ones who are doing the job now.

The CHAIRMAN: Shall clause 4 carry?

Carried.

Shall clause 5 carry?

Carried.

Shall clause 6 carry?

Carried.

Shall the schedule carry?

Carried.

Shall the Preamble carry?

Carried.

Shall the title carry?

Carried.

Shall the bill carry?

Carried.

Shall I report the bill without amendment?

Agreed.

The CHAIRMAN: Gentlemen, I would like to say that at the last meeting I was given authority to nominate a subcommittee on agenda and procedure. I do not know if there will be any other business referred to us by the House but, in any event I would like to name that sub-committee now. It will consist of myself as Chairman and Messrs. Applewhaite, Bryce, MacNaught, Murphy (*Lambton West*), Patterson and Stuart (*Charlotte*).

I would like to thank the minister, the deputy minister and the other gentlemen who have been with us this morning. I should also like to thank the members of the committee for their attendance and co-operation. I now declare the meeting adjourned to the call of the Chair.

## APPENDIX "A"

2nd Session, 22nd Parliament, 3-4 Elizabeth II, 1955.

## THE HOUSE OF COMMONS OF CANADA.

## BILL 279.

An Act to Implement a Convention on Great Lakes Fisheries between Canada and the United States.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

- |   |  |
|---|--|
| Short title.                                      | 1. This Act may be cited as the <i>Great Lakes Fisheries Convention Act</i> .  |
| Definitions.<br>"Commis-<br>sion"<br>"Convention" | <p>2. In this Act</p> <p>(a) "Commission" means the Great Lakes Fishery Commission established under the Convention; and</p> <p>(b) "Convention" means the Convention on Great Lakes Fisheries between Canada and the United States set out in the Schedule.</p>   |
| Convention approved.                              | 3. The Convention is hereby approved and confirmed.  |
| Regulations.                                      | 4. (1) Notwithstanding any other Act, the Governor in Council may make regulations for carrying out and giving effect to the provisions of the Convention and anything done by the Commission thereunder.  |
| Offence and penalty.                              | (2) Every person who violates a regulation is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year, or to both fine and imprisonment.  |
| Jurisdiction.                                     | 5. All courts, justices of the peace and magistrates in Canada have the same jurisdiction with respect to offences under the regulations as they have under sections 689 to 692 of the <i>Canada Shipping Act</i> , with respect to offences under that Act, and the provisions of those sections apply to offences under the regulations in the same manner and to the same extent as they apply to offences under the <i>Canada Shipping Act</i> . |
| Coming into force.                                | 6. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council and shall continue in force until a day to be fixed by proclamation of the Governor in Council following upon the termination of the Convention and no longer.   |

SCHEDULE  
CONVENTION ON GREAT LAKES FISHERIES  
BETWEEN  
CANADA  
AND  
THE UNITED STATES OF AMERICA

The Government of Canada and the Government of the United States of America,

Taking note of the interrelation of fishery conservation problems and of the desirability of advancing fishery research in the Great Lakes,

Being aware of the decline of some of the Great Lakes fisheries,

Being concerned over the serious damage to some of these fisheries caused by the parasitic sea lamprey and the continuing threat which this lamprey constitutes for other fisheries,

Recognizing that joint and coordinated efforts by Canada and the United States of America are essential in order to determine the need for and the type of measures which will make possible the maximum sustained productivity in Great Lakes fisheries of common concern,

Have resolved to conclude a convention and have appointed as their respective Plenipotentiaries:

The Government of Canada:

Arnold Danford Patrick Heeney, Ambassador Extraordinary and Plenipotentiary of Canada to the United States of America, and Stewart Bates, Chairman of the Delegation of Canada to the Great Lakes Fisheries Conference; and

The Government of the United States of America:

Walter Bedell Smith, Acting Secretary of State of the United States of America, and

William C. Herrington, Chairman of the Delegation of the United States of America to the Great Lakes Fisheries Conference,

who, having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I.

This Convention shall apply to Lake Ontario (including the St. Lawrence River from Lake Ontario to the forty-fifth parallel of latitude) Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, Lake Superior and their connecting waters, hereinafter referred to as "the Convention Area". This Convention shall also apply to the tributaries of each of the above waters to the extent necessary to investigate any stock of fish of common concern, the taking or habitat of which is confined predominantly to the Convention Area, and to eradicate or minimize the populations of the sea lamprey (*Petromyzon marinus*) in the Convention Area.

## ARTICLE II.

1. The Contracting Parties agree to establish and maintain a joint commission, to be known as the Great Lakes Fishery Commission, hereinafter referred to as "the Commission", and to be composed of two national sections, a Canadian Section and a United States Section. Each Section shall be composed of not more than three members appointed by the respective Contracting Parties.

2. Each Section shall have one vote. A decision or recommendation of the Commission shall be made only with the approval of both Sections.

3. Each Contracting Party may establish for its Section an advisory committee for each of the Great Lakes. The members of each advisory committee so established shall have the right to attend all sessions of the Commission except those which the Commission decides to hold *in camera*.

## ARTICLE III.

1. At the first meeting of the Commission and at every second subsequent annual meeting thereafter the members shall select from among themselves a Chairman and a Vice-Chairman, each of whom shall hold office from the close of the annual meeting at which he has been selected until the close of the second annual meeting thereafter. The Chairman shall be selected from one Section and the Vice-Chairman from the other Section. The offices of Chairman and Vice-Chairman shall alternate biennially between the Sections.

2. The seat of the Commission shall be at such place in the Great Lakes area as the Commission may designate.

3. The Commission shall hold a regular annual meeting at such place as it may decide. It may hold such other meetings as may be agreed upon by the Chairman and Vice-Chairman and at such time and place as they may designate.

4. The Commission shall authorize the disbursement of funds for the joint expenses of the Commission and may employ personnel and acquire facilities necessary for the performance of its duties.

5. The Commission shall make such rules and by-laws for the conduct of its meeting and for the performance of its duties and such financial regulations as it deems necessary.

6. The Commission may appoint an Executive Secretary upon such terms as it may determine.

7. The staff of the Commission may be appointed by the Executive Secretary in the manner determined by the Commission or appointed by the Commission itself on terms to be determined by it.

8. The Executive Secretary shall, subject to such rules and procedures as may be determined by the Commission, have full power and authority over the staff and shall perform such functions as the Commission may prescribe. If the office of Executive Secretary is vacant, the Commission shall prescribe who shall exercise such power or authority.

## ARTICLE IV.

The Commission shall have the following duties:

- (a) to formulate a research program or programs designed to determine the need for measures to make possible the maximum sustained productivity of any stock of fish in the Convention Area which, in the opinion of the Commission, is of common concern to the fisheries of Canada and the United States of America and to determine what measures are best adapted for such purpose;

- (b) to coordinate research made pursuant to such programs and, if necessary, to undertake such research itself;
- (c) to recommend appropriate measures to the Contracting Parties on the basis of the findings of such research programs;
- (d) to formulate and implement a comprehensive program for the purpose of eradicating or minimizing the sea lamprey populations in the Convention Area; and
- (e) to publish or authorize the publication of scientific and other information obtained by the Commission in the performance of its duties.

#### ARTICLE V.

In order to carry out the duties set forth in Article IV, the Commission may:

- (a) conduct investigations;
- (b) take measures and install devices in the Convention Area and the tributaries thereof for lamprey control; and
- (c) hold public hearings in Canada and the United States of America.

#### ARTICLE VI.

1. In the performance of its duties, the Commission shall, in so far as feasible, make use of the official agencies of the Contracting Parties and of their Provinces or States and may make use of private or other public organizations, including international organizations, or of any person.

2. The Commission may seek to establish and maintain working arrangements with public or private organizations for the purpose of furthering the objectives of this Convention.

#### ARTICLE VII.

Upon the request of the Commission a Contracting Party shall furnish such information pertinent to the Commission's duties as is practicable. A Contracting Party may establish conditions regarding the disclosure of such information by the Commission.

#### ARTICLE VIII.

1. Each Contracting Party shall determine and pay the expenses of its Section. Joint expenses incurred by the Commission shall be paid by contributions made by the Contracting Parties. The form and proportion of the contributions shall be those approved by the Contracting Parties after the Commission has made a recommendation.

2. The Commission shall submit an annual budget of anticipated joint expenses to the Contracting Parties for approval.

#### ARTICLE IX.

The Commission shall submit annually to the Contracting Parties a report on the discharge of its duties. It shall make recommendations to or advise the Contracting Parties whenever it deems necessary on any matter relating to the Convention.

## ARTICLE X.

Nothing in this Convention shall be construed as preventing any of the States of the United States of America bordering on the Great Lakes or, subject to their constitutional arrangements, Canada or the Province of Ontario from making or enforcing laws or regulations within their respective jurisdictions relative to the fisheries of the Great Lakes so far as such laws or regulations do not preclude the carrying out of the Commission's duties.

## ARTICLE XI.

The Contracting Parties agree to enact such legislation as may be necessary to give effect to the provisions of this Convention.

## ARTICLE XII.

The Contracting Parties shall jointly review in the eighth year of the operation of this Convention the activities of the Commission in relation to the objectives of the Convention in order to determine the desirability of continuing, modifying or terminating this Convention.

## ARTICLE XIII.

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Ottawa.

2. This Convention shall enter into force on the date of the exchange of the instruments of ratification. It shall remain in force for ten years and shall continue in force thereafter until terminated as provided herein.

3. Either Contracting Party may, by giving two years' written notice to the other Contracting Party, terminate this Convention at the end of the initial ten-year period or at any time thereafter.

In witness whereof the respective Plenipotentiaries have signed the present Convention.

Done at Washington, in duplicate, this tenth day of September, 1954.

For the Government of Canada:

A. D. P. HEENEY  
STEWART BATES

For the Government of the United States of America:

WALTER BEDELL SMITH  
WM. C. HERRINGTON

## APPENDIX "B"

CANADA—CATCH OF TROUT IN GREAT LAKES, BY LAKES AND TOTAL ONTARIO, 1930-1953

(In Hundred Weights)

Year	Lake Superior	Lake Huron			Lake St. Clair, River	Lake Erie + Upper Niagara River	Lake Ontario Lower Niagara + St. Lawrence Rivers	Sub-Total Great Lakes	Northern Inland Waters	Southern Inland Waters	GRAND TOTAL ONTARIO
		North Channel	Georgian Bay	Proper							
1920.....	15,302	3,513	13,171	12,663	.....	111	3,637	48,397	1,380	1,428	51,205
1931.....	13,284	3,440	12,893	12,145	.....	71	3,882	45,715	1,137	1,224	48,078
1932.....	11,237	3,627	13,132	12,925	.....	18	3,016	43,955	1,927	1,563	46,445
1933.....	9,683	4,712	13,444	13,434	.....	15	3,532	44,820	858	1,859	46,537
1934.....	12,607	6,267	13,340	15,623	.....	26	2,562	50,394	1,013	1,545	52,952
1935.....	15,184	7,109	14,753	20,692	.....	3	2,449	60,190	2,137	236	62,563
1936.....	15,962	7,047	14,726	21,375	.....	2	2,265	61,377	2,774	436	64,587
1937.....	16,986	6,440	15,042	17,537	.....	2	2,050	58,957	2,806	128	60,991
1938.....	16,678	6,261	14,269	17,473	.....	.....	2,758	57,439	2,711	255	60,405
1939.....	13,074	5,044	14,489	12,501	.....	.....	2,688	47,796	2,588	374	50,758
1940.....	12,612	2,541	13,340	10,388	.....	.....	1,874	41,755	1,637	249	43,641
1941.....	12,985	2,116	13,016	11,098	.....	.....	1,258	42,473	1,648	.....	44,121
1942.....	13,610	1,234	12,743	8,001	.....	1	898	36,487	1,966	.....	38,453
1943.....	13,230	255	10,664	5,174	.....	.....	763	30,086	2,285	.....	32,371
1944.....	15,527	92	8,152	3,158	.....	1	744	27,074	1,831	.....	29,505
1945.....	14,791	72	7,376	1,174	.....	1	1,051	24,465	1,424	.....	25,889
1946.....	15,309	60	6,959	1,295	.....	18	1,024	23,665	1,479	.....	25,144
1947.....	12,865	28	3,681	65	.....	.....	1,024	17,227	1,508	.....	18,785
1948.....	14,480	231	3,117	95	.....	2	423	18,348	1,484	.....	19,832
1949.....	13,561	531	3,426	32	.....	217	215	17,982	938	.....	18,929
1950.....	15,063	712	3,342	106	.....	.....	154	19,377	1,050	.....	20,437
1951.....	12,732	857	4,399	266	.....	.....	402	18,656	1,096	.....	19,752
1952.....	13,891	648	4,720	516	.....	.....	320	20,095	1,716	.....	21,811
1953.....	13,711	228	3,212	.....	.....	.....	138	17,289	1,331	.....	18,620

## APPENDIX "C"

CANADA—CATCH OF WHITEFISH IN GREAT LAKES, BY LAKES AND TOTAL ONTARIO, 1930-1953  
(In Hundred Weights)

Year	Lake Superior	Lake Huron			Lake St. Clair, River St. Clair Detroit River	Lake Erie+ Upper Niagara River	Lake Ontario Lower Niagara+ St. Lawrence Rivers	Sub-Total Great Lakes	Northern Inland Waters	Southern Inland Waters	Grand Total Ontario	
		North Channel	Georgian Bay	Proper								Sub- Total
1920.....	3,717	1,924	9,9394	2,466	7	10,877	5,519	34,449	6,756	14,228	55,433	
1931.....	2,560	2,340	9,809	2,452	3	11,084	5,259	33,487	7,173	12,273	52,933	
1932.....	1,934	1,680	11,948	2,192	8	9,122	4,183	31,067	7,001	10,589	45,657	
1933.....	2,450	2,577	14,754	3,095	.....	7,100	4,736	34,712	6,663	5,904	47,279	
1934.....	2,952	2,529	13,830	3,089	.....	9,159	4,895	36,455	5,608	7,167	49,230	
1935.....	3,774	3,041	12,922	2,403	16	11,901	5,574	41,631	13,036	17,116	54,783	
1936.....	3,195	2,602	9,838	2,353	11	17,677	5,762	41,438	16,238	127	57,903	
1937.....	3,008	2,542	11,229	2,870	4	14,010	5,516	39,179	15,922	84	55,185	
1938.....	3,117	1,857	11,962	2,052	2	16,018	6,023	35,091	14,335	111	49,477	
1939.....	3,396	1,572	11,180	1,151	7	23,122	6,646	47,074	16,497	100	63,671	
1940.....	3,850	1,188	8,872	924	6	31,366	4,036	50,242	13,382	51	63,685	
1941.....	3,149	851	7,480	931	5	33,586	4,416	50,418	13,281	.....	63,699	
1942.....	3,197	849	5,839	1,132	.....	25,240	4,420	40,684	13,660	.....	54,344	
1943.....	3,363	491	4,415	1,130	.....	14,814	2,293	27,508	14,352	.....	41,860	
1944.....	4,037	308	2,644	1,425	.....	12,589	4,600	26,692	15,440	.....	42,042	
1945.....	3,586	218	2,793	661	.....	16,894	3,594	27,748	14,904	.....	42,652	
1946.....	2,750	249	2,464	1,576	2	19,322	3,979	30,342	14,169	.....	44,511	
1947.....	2,459	769	873	2,919	2	27,263	3,578	37,861	11,557	.....	49,418	
1948.....	3,057	1,466	2,446	5,379	.....	37,999	2,136	52,714	12,218	41	64,973	
1949.....	2,770	2,725	8,050	2,430	.....	36,201	2,186	54,362	16,271	.....	70,633	
1950.....	3,407	3,099	20,880	3,632	.....	13,904	4,189	48,511	17,376	.....	65,887	
1951.....	3,406	2,018	30,252	3,652	.....	11,296	3,853	54,477	17,327	.....	71,804	
1952.....	2,675	1,163	46,787	7,646	.....	14,236	4,165	76,672	17,591	.....	94,263	
1953.....	2,822	1,339	61,662	1,797	.....	16,410	2,072	86,102	16,037	.....	102,139	

**APPENDIX "D"**  
**CATCH OF WHITEFISH IN THE UNITED STATES BETWEEN 1920-1953**  
(In Hundred Weights)

Year	Lake Superior	Lake Huron	Lake Michigan	Lake Erie	Lake Ontario	Lake of The Woods	Sub-Total Superior, Huron and Michigan	Total
1930.....	2,947	33,798	47,886	3,069	874	998	84,631	89,572
1931.....	4,899	44,915	43,274	12,729	675	1,121	93,088	107,613
1932.....	4,506	43,329	35,576	11,086	546	1,663	83,411	97,406
1933.....	4,831	32,377	4,047	9,972	404	1,432	41,255	53,063
1934.....	4,932	25,658	21,818	7,774	836	1,742	41,408	62,760
1935.....	5,123	18,948	16,971	9,949	405	1,101	41,042	52,497
1936.....	3,741	14,422	10,255	11,584	531	777	28,418	41,310
1937.....	3,636	10,187	10,726	6,475	567	691	24,949	32,282
1938.....	4,554	5,580	12,589	9,109	558	635	22,723	33,025
1939.....	4,970	2,552	9,506	20,981	1,027	763	17,028	39,809
1940.....	6,922	1,881	9,548	26,058	1,111	665	18,351	45,185
1941.....	7,275	1,137	12,901	24,459	600	562	21,313	46,934
1942.....	7,510	951	13,406	19,239	210	529	21,867	41,845
1943.....	7,317	1,492	14,071	9,490	260	517	22,880	33,147
1944.....	6,633	1,852	17,532	5,674	574	218	26,017	32,483
1945.....	7,173	1,815	16,579	9,000	327	400	25,567	35,294
1946.....	9,149	5,450	25,576	7,970	(441)	335	40,175	48,921
1947.....	9,508	30,229	58,248	17,738	213	376	97,785	116,312
1948.....	12,006	29,719	52,472	27,894	82	328	94,197	125,501
1949.....	12,837	5,302	34,919	34,786	24	503	53,058	88,371
1950.....	10,399	1,142	23,608	16,046	210	639	35,149	52,044
1951.....	4,416	1,426	12,136	8,857	329	441	17,978	27,606
1952.....	3,508	1,676	17,703	13,587	228	466	22,887	37,168
1953.....								

## APPENDIX "E"

## CATCH OF LAKE TROUT, 1885-1952 (UNITED STATES)

(Expressed in Thousands of Pounds)

Year	Lake Ontario	Lake Erie	Lake Huron	Lake Michigan	Lake Superior	Inter-national Lakes of Minnesota	TOTAL
	Quantity	Quantity	Quantity	Quantity	Quantity	Quantity	Quantity
1885.....	20	107	2,540	6,431	2,488	(1)	(1)
1889.....	6	67	2,181	5,580	2,367	(1)	(1)
1890.....	41	121	1,750	8,364	2,613	(1)	(1)
1892.....	(1)	(1)	2,382	6,437	(1)	(1)	(1)
1893.....	6	203	3,106	8,526	4,342	(1)	(1)
1894.....	(1)	(2)	2,039	8,533	(1)	(1)	(1)
1895.....	(1)	(1)	1,875	7,696	(1)	(1)	(1)
1896.....	(1)	(1)	1,527	9,020	(1)	(1)	(1)
1897.....	3	37	1,292	7,823	3,794	(1)	(1)
1899.....	15	32	1,460	5,285	3,625	(1)	(1)
1903.....	4	15	1,724	8,943	5,592	(1)	(1)
1908.....	14	7	1,382	8,631	2,903	(1)	(1)
1913.....	27	2	2,163	6,305	2,386	90	10,973
1914.....	29	6	1,365	6,927	1,676	162	10,075
1915.....	31	16	1,774	7,704	1,373	93	10,991
1916.....	14	5	1,798	5,999	2,178	75	10,069
1917.....	24	5	2,111	6,904	1,983	112	11,139
1918.....	22	21	2,614	5,810	2,326	94	10,887
1919.....	26	12	2,322	6,584	3,463	91	12,498
1920.....	28	2	1,220	6,984	2,016	123	10,373
1921.....	25	46	1,358	11,749	2,124	80	15,382
1922.....	34	2	1,828	7,540	2,175	88	11,667
1923.....	36	1	1,827	6,177	1,901	73	10,015
1924.....	45	1	1,395	7,224	2,565	86	11,316
1925.....	70	4	1,615	6,894	2,655	130	11,368
1926.....	61	3	1,685	6,530	3,280	(2)	11,559
1927.....	42	9	1,692	5,689	3,051	(2)	10,493
1928.....	43	3	1,598	4,819	2,962	(2)	9,425
1929.....	62	1	1,283	6,394	2,804	(2)	10,544
1930.....	24	5	1,729	5,441	2,489	(2)	9,688
1931.....	14	3	2,049	5,632	2,993	(2)	10,691
1932.....	18	10	2,165	5,470	3,967	1	10,731
1933.....	12	4	1,970	5,212	2,493	(2)	9,691
1934.....	14	(2)	1,576	4,957	3,374	.....	9,921
1935.....	7	(2)	1,743	4,873	3,476	.....	10,099
1936.....	8	2	1,400	4,763	3,233	.....	9,406
1937.....	13	3	1,340	4,988	3,085	.....	9,429
1938.....	17	(2)	1,270	4,906	3,137	.....	9,360
1939.....	16	.....	1,372	5,660	2,744	.....	9,792
1940.....	14	(2)	940	6,266	2,677	(2)	9,897
1941.....	3	.....	893	6,788	2,854	.....	10,538
1942.....	1	2	728	6,484	2,959	(2)	10,174
1943.....	3	(2)	459	6,860	3,053	.....	10,375
1944.....	4	(2)	363	6,498	3,740	(2)	10,605
1945.....	1	.....	173	5,437	3,369	.....	8,980
1946.....	1	.....	38	3,974	3,444	.....	7,457
1947.....	1	.....	12	2,425	2,964	(2)	5,402
1948.....	(2)	(2)	4	1,197	2,951	.....	4,155
1949.....	(2)	(2)	1	342	2,966	.....	3,309
1950.....	.....	.....	(2)	54	3,202	.....	3,256
1951.....	2	.....	(2)	11	2,915	.....	2,928
1952.....	2	.....	(2)	3	2,838	.....	2,843

(1) Data not available.

(2) Less than 500 pounds.

NOTE.--Data on the International Lakes of Minnesota include only the catch from Lake of the Woods prior to 1926. The data in this table were taken from the Report of the International Board of Inquiry for the Great Lakes Fisheries and from the annual statistical publications of the Fish and Wildlife Service. In some years, small quantities of related species may have been included in the data.

GREAT LAKES COMMERCIAL FISHERY STATISTICS, BY LAKES,  
(Quantity shown in thousands of pounds.)

Year	LAKE ONTARIO						LAKE ERIE					
	U.S.A.		CANADA		TOTAL		U.S.A.		CANADA		TOTAL	
	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
1930.....	682	65	4,021	265	4,703	330	29,540	1,655	12,680	710	42,220	2,365
1931.....	442	37	2,869	205	3,311	242	34,772	1,699	13,807	771	48,579	2,470
1932.....	521	37	2,232	162	2,753	199	33,670	1,439	12,733	703	46,403	2,142
1933.....	527	40	2,551	186	3,078	226	26,187	1,068	10,231	554	36,418	1,622
1934.....	717	55	2,231	163	2,948	218	32,809	1,433	11,500	632	44,309	2,065
1935.....	770	54	2,723	199	3,493	253	30,356	1,644	14,429	794	44,785	2,438
1936.....	601	46	3,126	212	3,727	258	36,777	2,154	11,953	706	48,730	2,860
1937.....	618	52	3,330	222	3,948	274	26,933	1,436	14,664	826	41,597	2,262
1938.....	690	54	3,068	212	3,758	266	27,619	1,981	14,501	797	42,120	2,778
1939.....	1,456	108	3,495	232	4,951	340	28,663	2,216	14,263	868	42,926	3,084
1940.....	1,359	92	3,022	187	4,381	279	22,944	1,772	9,767	690	32,711	2,462
1941.....	597	59	3,126	193	3,723	252	22,063	1,883	8,950	657	31,013	2,540
1942.....	325	39	2,488	156	2,813	195	24,131	2,741	10,037	660	34,168	3,401
1943.....	395	60	2,281	358	2,676	418	27,115	4,134	14,483	2,132	41,598	6,266
1944.....	400	68	2,637	425	3,037	493	28,837	3,320	15,255	1,891	44,092	5,211
1945.....	492	74	2,338	385	2,830	459	28,631	4,267	18,949	3,698	47,580	7,965
1946.....	384	68	2,059	317	2,443	385	29,121	4,489	18,925	3,088	48,046	7,577
1947.....	464	81	2,002	312	2,466	393	19,818	3,813	12,334	2,675	32,152	6,488
1948.....	386	65	2,045	290	2,431	355	26,502	4,102	14,926	3,024	41,428	7,126
1949.....	351	53	2,006	258	2,357	311	34,249	4,618	19,093	2,943	53,342	7,561
1950.....	189	44	2,219	309	2,408	353	23,982	4,572	16,866	3,149	40,848	7,721
1951.....	498	107	2,410	424	2,908	531	20,921	4,448	13,144	2,892	34,065	7,340
1952.....	668	173	2,281	393	2,949	566	25,351	4,357	17,417	3,249	42,768	7,606
1953.....			2,060	284					23,389	3,089		

"F"

QUANTITIES AND VALUES—U.S.A., CANADA AND TOTALS, 1930-1953  
(Value shown in thousands of dollars.)

LAKE HURON						LAKE MICHIGAN		LAKE SUPERIOR					
U.S.A.		CANADA		TOTAL		U.S.A.		U.S.A.		CANADA		TOTAL	
Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
16,377	1,320	6,893	625	23,270	1,945	30,973	2,159	14,694	695	4,761	356	19,455	1,051
17,727	1,510	7,247	656	24,974	2,166	25,059	1,991	11,281	628	3,169	260	14,450	888
15,848	1,143	7,492	686	23,340	1,829	20,692	1,236	10,173	379	2,488	212	12,661	591
13,351	955	7,813	739	21,164	1,694	21,682	1,412	10,653	478	3,108	241	13,761	719
14,512	955	7,550	733	22,062	1,688	28,444	1,837	17,533	723	3,988	297	21,521	1,020
13,676	1,224	8,402	824	22,078	2,048	25,089	1,943	17,874	941	3,578	297	21,452	1,238
12,790	1,000	7,835	766	20,625	1,766	25,783	2,131	16,008	928	4,900	364	20,908	1,292
11,895	951	7,675	742	19,570	1,693	26,398	2,563	16,011	919	4,509	350	20,520	1,269
12,039	760	7,303	710	19,342	1,470	24,379	2,294	14,856	875	4,057	327	18,913	1,202
13,353	866	6,456	619	19,809	1,485	23,027	2,570	16,783	922	3,307	269	20,090	1,191
9,099	680	5,662	533	14,761	1,213	22,814	2,050	20,672	904	3,319	277	23,991	1,181
8,727	681	5,423	516	14,150	1,197	22,918	2,374	22,111	1,310	3,436	274	25,547	1,584
8,465	1,011	4,779	435	13,244	1,446	21,404	3,204	19,228	1,498	3,363	272	22,591	1,770
8,610	1,075	4,419	906	13,029	1,981	22,174	4,598	18,372	2,215	3,347	511	21,719	2,726
6,432	832	3,492	709	9,924	1,541	19,252	4,342	19,245	2,246	3,761	530	23,006	2,776
7,475	1,129	3,029	673	10,504	1,802	22,090	5,571	18,725	2,574	3,812	696	22,537	3,270
7,147	842	2,535	524	9,682	1,366	22,392	3,907	17,848	2,219	3,589	639	21,437	2,858
8,034	1,153	2,040	432	10,074	1,585	24,958	3,876	14,987	1,674	2,830	503	17,817	2,177
8,836	1,362	2,798	700	11,634	2,062	27,023	4,596	19,221	2,347	3,371	675	22,592	3,022
5,581	595	3,372	822	8,953	1,417	25,573	3,823	17,730	2,190	3,188	561	20,918	2,751
5,073	411	4,762	1,171	9,835	1,582	27,077	3,661	12,584	1,977	2,655	626	15,239	2,603
5,521	553	5,742	1,879	11,263	2,432	27,648	3,461	14,035	1,921	2,851	641	16,886	2,562
6,118	716	7,527	1,872	13,645	2,588	32,061	4,065	15,465	1,998	3,127	661	18,592	2,659
		8,729	2,081							2,771	590		









GOVT PUBNS

BINDING SECT. JUL 2 1980

